ALAN H. SOMMERSTEIN
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OATH AND STATE IN ANCIENT GREECE

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Alan H. Sommerstein / Andrew J. Bayliss

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Preface

This book is based on the work of the research project *The Oath in Archaic and Classical Greece*, funded by the Leverhulme Trust (award no. F.00 114/Z), which between 2004 and 2007, at the University of Nottingham, created a database of nearly four thousand references to oaths and swearing in Greek texts of all kinds from the introduction of alphabetic writing until 322 BC, in sources from Homer to Demosthenes and Aristotle, and from seventh-century Theran graffiti to documents implementing decrees of Alexander the Great. The database may be consulted at http://www.nottingham.ac.uk/classics/research/projects/oaths/database.aspx).

The editors and contributors of the present volume wish to express their gratitude to all who have made possible the creation of the volume, and of the project that gave rise to it: to the staff and administrators of the School of Humanities and Department of Classics, University of Nottingham, and particularly to John Rich, Head of the Department when the Leverhulme award was first applied for, and subsequently Head of the School; to Peter Elford and Jennifer Edmond, of the University's Humanities Research Centre, who greatly improved the award application by their advice; to Teri Browett and especially Richard Tyler-Jones, whose assistance was essential in the creation of the database; and for the many ideas that have been contributed by their colleagues and students at Nottingham, Birmingham, McGill and Notre Dame, and by others too (particular debts to individuals are acknowledged in the notes at appropriate points).

The present volume was originally designed as the second part of a two-volume study bearing the same title as the Nottingham project, but, owing to the other commitments of some members of the project team, it was decided that the two volumes should be issued under separate titles with the present volume appearing first. The other volume, *Oaths and Swearing in Ancient Greece*, by Alan Sommerstein and Isabelle Torrance with contributions by Andrew Bayliss, Judith Fletcher, Kyriaki Konstantinidou and Lynn Kozak, is expected to follow in about twelve months; once the dilogy is complete, *Oaths and Swearing* should be regarded as the first volume of the pair. In the present volume it is referred to by the abbreviation S&T.

It will become apparent to a reader of this volume that the importance of oaths in ancient Greek culture has often been underrated. It is not surprising then that we have often found that our chosen subject has been misunderstood to be something else entirely. We can, however, assure the misunderstanders that they will find in these volumes at least some discussion of odes and even of oafs, though probably not of oats – all of it, though, in the context of understanding the history, phenomenology and significance of the practice of reinforcing a statement or a promise with a request to powers above or below to punish the speaker if (s)he was speaking falsely.

We have been treated with great courtesy, understanding and patience by Sabine Vogt, Mirko Vonderstein, Claudia Franzke and their colleagues at De Gruyter ever since we first met Sabine on a balmy January night at San Diego in 2007, at a time when we were not sure whether a book, or pair of books, which were then no more than a plan, would ever see the light of day. We deeply appreciate the faith they placed in us.

Alan H. Sommerstein
Andrew J. Bayliss
Lynn A. Kozak
Isabelle C. Torrance

Nottingham/Birmingham/Montreal/Notre Dame,
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Abbreviations

Abbreviations not listed below are as in *LSJ* (H.G. Liddell and R. Scott, *A Greek-English Lexicon*[9], rev. H. Stuart Jones [Oxford, 1940] with *Revised Supplement* ed. P.G.W. Glare [Oxford, 1996]) or *OCD*[4] (S. Hornblower and A.J.S. Spawforth eds. *The Oxford Classical Dictionary*[4] [Oxford, 2012]), except that some names of ancient authors and works are abbreviated in a fuller form than in these publications.

Ath.Pol.	(if cited without author's name) the *Athēnaiōn Politeia* ascribed to Aristotle
BIDR	*Bollettino dell'Istituto di Diritto Romano*
Chaniotis *Verträge*	A. Chaniotis, *Die Verträge zwischen kretischen Poleis in der hellenistischen Zeit* (Stuttgart, 1996)
CID	*Corpus des inscriptions de Delphes* (Paris, 1977–2002)
Horkos	A.H. Sommerstein / J. Fletcher (eds), *Horkos: The Oath in Greek Society* (Exeter, 2007)
HSCP	*Harvard Studies in Classical Philology*
Hyp. to Dem.	Libanius, *Hypotheses to the Speeches of Demosthenes*
IMilet	*Inschriften von Milet* (Berlin, 1997–)
IPArk	G. Thür / H. Taeuber, *Prozeßrechtliche Inschriften der griechischen Poleis: Arkadien* (Vienna, 1994)
Lyc.	Lycurgus [not Lycophron]
RBPh	*Revue Belge de Philologie*
RO	P.J. Rhodes / R.G. Osborne, *Greek Historical Inscriptions, 404–323 B.C.* (Oxford, 2003)
Σ	scholium or scholia
S&T	A.H. Sommerstein / I.C. Torrance, *Oaths and Swearing in Ancient Greece* (Berlin, forthcoming)

PART ONE

OATHS IN THE POLIS

1 Introduction
(*A.H. Sommerstein*)

This book and its partner volume (S&T) are about oaths in archaic and classical Greece, and we should begin by defining our terms. Since we are not particularly concerned with drawing a line between the archaic and classical periods, we need only set beginning and end points for an era comprising both. We take the archaic period to begin with the earliest surviving alphabetic Greek texts – which means, in practice, with the major Homeric and Hesiodic poems, these being the oldest texts that contain references to oaths – and the classical period to end with the deaths of Aristotle, Demosthenes and Hypereides in 322 BC. At various points we will be referring to later (and indeed to earlier) evidence, but these are the bounds of the timespan we are actually examining.

As to the term "oath" itself, we will use the definition embodied in the palmary formulation of Richard Janko[1], whereby "to take an oath is in effect to invoke powers greater than oneself to uphold the truth of a declaration, by putting a curse upon oneself if it is false". An oath, then, is an utterance whereby the speaker – the *swearer* – does the following three things simultaneously.

(1) The swearer makes a *declaration*. This may be a statement about the present or past, in which case the oath is *assertory*; or it may be an undertaking for the future, in which case the oath is *promissory*.

(2) The swearer specifies, explicitly or implicitly,[2] a *superhuman power or powers*[3] as witnesses to the declaration and guarantors of its truth. In

1 Janko 1992, 194, on *Iliad* 14.271–79.

2 Ancient Greeks usually, though not always, specified the power(s) by whom they were swearing. When not explicitly specified, the identity of the guarantor power will be either implied in the context, or given by the culture. Contextual determination is to be found, for example, in Aesch. *Eum.* 762–74, where Orestes swears that, in his posthumous capacity as a hero, he will prevent the Argives from making any attack on Athens, but will bless them if they act as faithful allies to the Athenians: he does not specify by which god(s) he is swearing – but his promise is actually addressed to Athena, and she is well capable of punishing its breach.

English the swearer is said to swear "by" (sometimes, colloquially, "to") this power or powers; in Greek the guarantor power was normally the direct object of the verb of swearing – strictly speaking, one did not in Greek "swear by Zeus", for example; rather, one "swore Zeus".

(3) The swearer *calls down a conditional curse* on him/herself,[4] to take effect if the assertion is false or if the promise is violated, as the case may be; that is, (s)he prays that in that event (s)he may suffer punishment from the guarantor power. This element need not be explicitly spelt out; it is often left to be understood from the words of the oath itself, particularly the performative verb " I swear" (in Greek *omnumi*, later *omnuō*); but it can always be made explicit when there is need for special assurance. At any rate, whether explicit or not, it is the true defining feature of an oath: *an oath is a declaration whose credibility is fortified by a conditional self-curse*.[5]

*****

This book is concerned with the ways in which oaths were used in, and in particular *by*, the Greek *polis* or city-state. In other words, we are dealing here, for the most part, not with the use of oaths to reinforce a *voluntary* unilateral statement or promise by an individual, or a voluntary agreement between two individuals, but with oaths which are *prescribed* by the *polis* as having to be taken, in specified circumstances, by members of its citizen body or others who have dealings with it, and with oaths accompanying agreements made between two *poleis* or between a *polis* and another kind of political actor (such as a king). We shall also be considering the role of oaths in conspiracies (*sunōmosiai*, literally "swearings-together") established to work *against* the institutions of the *polis*, often with the objective of capturing control of the *polis* for the conspirators.

When an individual backs an assertion or promise by an oath, they decide for themselves what form the oath shall take, using their judgement

3 Normally these are divinities, heroes, etc., but sometimes we find sacred or cherished *objects* (often referred to by the German term *Eideshorte*) filling the corresponding place in oath-formulae (e.g. the speaker's staff in *Iliad* 1.233–39).

4 The punishment prayed for need not fall exclusively, or at all, directly on the swearer him/herself; but it must always be something that is harmful or hurtful to the swearer. If it is not, the oath is a sham – like that of the chorus in Ar. *Birds* 445–7, who pray that if they keep their promise they may win the comic competition by a unanimous verdict but that if they break it they may … win by just one vote.

5 The equation of oath and curse is made unusually explicit by Andocides (1.31) in a reference to the oath of the jurors (§5.4): "you … will cast your votes about me after having taken great oaths, and invoked the greatest curses both upon yourselves and upon your children, undertaking to vote justly in my case".

to choose an expression that strikes the most advantageous balance between credibility and safety. When two or more individuals negotiate a sworn agreement, they must agree upon the terms of their oath, which may be equal or unequal depending on such factors as the relative power of the parties and the extent to which each regards the other(s) as trustworthy. But when one of the parties is a state, it is quite another matter.

A state, by definition, exercises a monopoly on the legitimate use of force.[6] It may license individuals, in certain circumstances, to assert their rights by the private use of force – to take the most extreme example, virtually all states, now and in the past, permit individuals to use lethal force in necessary self-defence, and in ancient Greek states this licence to kill was valid over quite a wide range of situations;[7] but the state almost always retains the power to review the exercise of such rights and punish their abuse. Like other states, then, the Greek *polis* – except when a régime was on the point of being overthrown – was overwhelmingly powerful vis-à-vis any individual, and if for any reason it desired a sworn assurance from an individual on any matter, it could normally both compel him to swear (by imposing a penalty for refusal)[8] and stipulate the precise terms in which he should do so, anticipating any possible "artful dodges"[9] and

6 Max Weber's statement of the essential characteristics of the modern state is in the relevant respects equally applicable to the ancient: "The modern state … possesses an administrative and legal order … [which] claims binding authority, not only over the members of the state, the citizens … , but also to a very large extent over all action taking place in the area of its jurisdiction. … Furthermore … the use of force is regarded as legitimate only so far as it is either permitted by the state or prescribed by it" (Weber 1978, 56).

7 In classical Athens, for example, one could lawfully use lethal violence in a fight, if there appeared to be danger to life; or in protecting one's property from a robber; or against anyone caught in the act of sexually violating one's wife, daughter, sister, mother, or free concubine, or of committing a burglary at night (see MacDowell 1963, 70–81, esp. 75–77; Harris 2010; Sommerstein 2011). But in every such case the victim's family might bring a prosecution for homicide, and if the judges were not satisfied that the conditions for lawful killing had been met, the killer would be punished as an ordinary murderer.

8 Often consisting in the denial of some right or privilege otherwise available; for example, a person who had been chosen for some public office, but refused to take the oath prescribed for holders of that office, would not be allowed to exercise its functions.

9 The concept to which we have given the name "artful dodging" – the art of framing an oath in such a way as to be literally truthful but actually misleading – will be discussed in general terms in S&T ch.10; several instances of the phenomenon will be found in the present volume (see especially §12.2).

devising language that would make them ineffective, and fortifying the oath, if thought necessary, by specifying sanctifying circumstances or making explicit, and extra-strong, the curse implied in the oath.

Oaths prescribed by the *polis* appear both in our earliest literary texts and in some of our earliest inscriptional texts. Several of the latter are discussed in chapters 2 and 3.[10] I shall here present a couple of examples from early poetry.

In the *Iliad* (22.111–21) Hector, wondering whether there is any way for him to avoid a confrontation with Achilles, muses on the possibility of approaching him with a proposal for peace:

> If I lay down my [arms], go forward as I am to face the excellent Achilles, and promise him to give Helen to the Atreidae to take away, and together with her all the property that Alexandros [Paris] took with him to Troy in his hollow ships … and also to divide with the Achaeans everything else that this city contains; and if afterwards I take a *gerousios horkos* from the Trojans that they will conceal nothing, but divide in two all the property that the lovely citadel holds within its walls …

At this point Hector breaks off, realizing that this scenario is an impossible one, since if he approached Achilles in this way Achilles would almost certainly kill him on the spot; but the scenario must be one that would, in other circumstances, be realistic. Hector, then, is envisaging a peace treaty under which the Trojan *polis* will not only restore to the Greeks the wife and the property of which Paris had robbed Menelaus, but also surrender to them, as a fine or indemnity, half of the movable property in the city. The peace treaty may or may not itself be sworn (on this see chapters 8 and 10), but the oath (*horkos*) of which Hector is here speaking is not a mutual pledge between the Trojans and the Greeks; rather, it is an oath that he himself will exact from the other Trojans. It is not clear precisely what is implied by calling this a *gerousios horkos*, an "oath of the elders" (i.e., presumably, the deliberative council of the Trojan state). Was it the elders themselves who were to swear, or is the meaning rather that every Trojan householder would have to make oath *in front of* the council? The latter is arguably more likely, since the context strongly suggests that Hector is thinking of an exceptional measure, and an oath taken by the council to carry out fully and honestly the terms of the peace agreement would be nothing exceptional – it was what normally happened when enemies came to terms, as in the abortive treaty made before the duel between Paris and Menelaus (3.267–301; see §8.1) when all the

10 For example, the Athenian ephebic oath (§2.3); the oath of the Spartan *enōmotiai* (§2.4); the oath taken at the foundation of the colony of Cyrene (§2.6); and the oath attached to the law of Drerus forbidding re-election to the office of *kosmos* (ch.3).

leaders of both sides take part in the oath by holding hairs cut from the heads of the sacrificial animals over which the oath is pronounced. More likely, therefore, Hector envisages the council decreeing that every citizen must swear that he is declaring the whole of his property and valuing the various items honestly so that what he brings in for surrender really does represent half of the total. The whole procedure will have been well known, at least by report, to Homeric audiences, since it is also alluded to in the description of the Shield of Achilles, in the war scene (18.510–13) where those attacking the city are divided in their opinion, some of them refusing to make any terms while others are ready to accept the surrender of half the property in the city, which, however, the defenders are not yet willing to agree to.

The other canonical early poet, Hesiod, makes an important general reference in his *Works and Days* (219–21) to oaths in the context of judicial disputes. Having warned his brother Perses, whom he accuses of trying to cheat him with the aid of "bribe-devouring" aristocratic judges, that *dikē* is bound to win out ultimately over *hubris*, he adds by way of explanation:

> For Horkos[11] easily keeps pace with crooked judgements, and Dike makes a great noise when she is dragged along the way taken by bribe-devouring men who give judgements by crooked rules.

This passage does not necessarily imply that judges in the Ascra of Hesiod's time were required to swear that they would judge fairly, though they may have been (see §5.1 on *Iliad* 16.384–93). Hesiod, after all, is here warning his brother, not the judges; as his words elsewhere show (38–41, 248–73), he has little confidence that the latter will give "straight" decisions, and he cannot expect that *Perses* will be deterred from fraudulent litigation by the thought that *the judges* may be punished for breaking their oath. Rather (cf. M.L. West 1978 *ad loc.*) he is thinking of an oath that Perses himself has sworn (falsely, of course) before or during his lawsuit, and saying to him: do not suppose that you will be able to get away with cheating me just because you have bribed the judges to give an unjust decision; if that unjust decision is given in your favour, hard on its heels will come the cursing power of your oath, with dire consequences for you.

This reading of *Works and Days* 219–21 is confirmed by a later passage (282–5) where Perses (again) is warned that

11 The personification, as a god, of the word *horkos* "oath". Later in the *Works and Days* (803–4) we are told that the Erinyes, embodiments of the curse, attended Horkos' birth, and in the *Theogony* (231–2) Hesiod says that Horkos "brings great suffering to men on earth, whenever one wilfully swears a perjured oath".

> he who deliberately lies in testimony, swearing a false oath, and errs irremediably by injuring Dike, that man leaves an enfeebled offspring after him; but the after-offspring of a true-swearing man is strengthened.

Strictly speaking, "testimony" (*marturia*) means a statement, not by a litigant in his own cause, but by a witness called to support him; Perses, however, is everywhere else presented as himself a litigant, and we must suppose that *marturia* is here used loosely. This passage cannot, therefore, be taken as evidence that in Hesiod's Ascra witnesses gave their testimony on oath; like 219–21, it shows only that at some stage of a lawsuit *the parties* were required to swear that their respective pleas were true – on pain, no doubt, of losing the case by default if they refused. This simple and effective device for screening out unfounded claims or defences may well be far older than the *polis* itself.

We shall now see in detail how *poleis* of the archaic and classical period deployed oaths to regulate almost every aspect of their public life.

2 Oaths and citizenship
(*A.J. Bayliss*)

2.1 Initial considerations

Oaths were the glue that held the ancient Greek city together. According to the fourth-century Athenian orator Lycurgus (*Leocr.* 79):

> The power which keeps our democracy together is the oath (*horkos*). For there are three things of which the state is built up: the archon, the juror (*dikastēs*) and the private citizen (*idiōtēs*). Each of these gives this oath as a pledge, and rightly so. Many men, by fooling people and escaping detection, are not only freed from danger for the moment but are also free from punishment for their crimes for the rest of their lives. But the man who swears a false oath does not escape the notice of the gods, nor does he escape their punishment. On the contrary, if not he himself, then the children and the whole family of the perjurer fall into the greatest misfortune.

Although Lycurgus was speaking specifically about Athens and its democracy, his sentiments would have resonated anywhere in the Greek-speaking world. Greeks from Massilia to Heracleia Pontica would have expected their archons, their jurors, and the general populace to swear oaths. An oath of citizenship would have been the first significant oath a Greek man would ever swear in his life, and perhaps the only significant oath if he chose not to hold office.[1] Oaths of citizenship bound the body

1 Formal oaths by adolescents (aside from citizenship oaths) and children are quite rare in Classical Greek prose. They are considerably more frequent in Greek verse. Notable examples of formal oaths sworn by adolescents include Hippolytus' oath to his father Theseus that he had never touched Phaedra (Eur. *Hipp.* 1025–31), Pylades' oath that he would "draw his dark sword" against Helen (Eur. *Or.* 1147), and Parthenopaeus' spectacularly ill-judged oath that he would sack Thebes in defiance of Zeus (Aesch. *Seven* 529–32, if the reading βίαι Διός is correct). The fact that Parthenopaeus was young (Aeschylus describes him as "the beautiful child of a mountain-bred mother—a warrior, half man, half boy, [whose] beard is newly sprouting on his cheeks, the thick, upspringing hair of youth in its bloom") might account for his ill-considered oath. The only attested cases of children swearing formal oaths are the oath reputedly sworn by all the colonists of Cyrene (ML 5; see previous section), and three oaths sworn by the god Hermes when he was still a child (*h.Hom.Herm.* 379–80, 383–5, 514–23). That the precocious Hermes swore oaths as a child hardly counts as evidence that

politic together. That both the wealthiest and the poorest citizens swore the same oath reflected their relative equality, a status prized by the inhabitants of the majority of Classical Greek cities.

It is therefore lamentable that we have very little evidence for actual citizenship oaths from Classical Greek cities. The earliest evidence we possess for a citizenship oath is a very fragmentary text from Teos dated to 480–450 BC (*SEG* xxxi 985 A, 11–23) which indicates that at that time Teian youths swore, "I will not conspire to revolt, cause a revolution or revolt, and will not prosecute anyone or confiscate property or arrest or put to death anyone unless he has been condemned by the law of the *polis* by more than [200?] in Teos, and by more than 500 in Abdera". Unfortunately the document breaks off soon after this, which limits the value of a document that is already of questionable worth in that it refers to the refounded city of Teos, and is typically characterized as a curse against rebels rather than a citizenship oath proper.[2]

We might have expected to fill the gap with a citizenship oath from Plato's ideal *polis*. But Plato has no place for such oaths in his Magnesia, and he provides no sworn process for registering citizens in phratries or demes. This seems very much in keeping with what appears to be typical philosophical mistrust of oaths (cf. S&T ch.15).[3]

We are forced to rely on Athens, which will be (for better or worse) the norm for much of this chapter. The only fully preserved Classical citizenship oath is that sworn by adolescent Athenians (ephebes) who were about to undergo two years of military training. This oath was recorded on an inscription from the deme of Acharnae (RO 88) set up in the mid-fourth century, which describes it as "the ancestral oath (*horkos patrios*) of the ephebes which the ephebes must swear":

> I shall not bring shame upon the sacred weapons nor shall I desert the man beside me, wherever I stand in the line. I shall fight in defence of things sacred and profane and I shall not hand the fatherland on lessened, but greater and better both as far as I am able and with all. And I shall be obedient to whoever exercises power reasonably on any occasion and to the laws currently in force and any reasonably put into force in the future. If anyone attempts to destroy these, I

Greek children routinely swore oaths. For a recent discussion of the oaths sworn by Hermes as a child see Fletcher 2008.

2 For detailed discussions of this problematic document see Hermann 1981, 13ff, Graham 2001, 263–268, 269–314.

3 Plato, *Laws* 949b bans the use of oaths in legal trials altogether. Theophrastus' character of "mindlessness" (*aponoia*) (*Char.* 6) is said to "take an oath too readily", while his "overzealous man" (*periergos*) (*Char.* 13) when about to swear an oath assures the listeners that "I've sworn oaths many times before". Clearly swearing too often and too readily is a fault in Theophrastus' mind.

> shall refuse to allow him both as far as is in my power and in union with all, and I shall honour the ancestral religion. Witnesses are the gods Aglaurus, Hestia, Enyo, Enyalios, Ares and Athena Areia, Zeus, Thallo, Auxo, Hegemone, Heracles, as well as the boundaries of my fatherland, wheat, barley, vines, olives, and figs.

Lycurgus (*Leocr.* 79) calls this the oath of the "private citizen" (*idiōtēs*). But it was not the only oath needed to become a private citizen; several others were required before Athenian adolescents would be granted the privilege of Athenian citizenship.

2.2 Oaths as stepping-stones to citizenship at Athens

Citizenship was a coveted privilege in all Greek cities, especially Athens.[4] From 451/0 Athenian citizenship was strictly limited to the legitimate sons of two Athenian parents (*Ath.Pol.* 42.1), and each Athenian boy had to be recognized not only by his father, but also by the Athenian community before being accepted for citizenship. Athenian citizens belonged to a network of groups within the *polis* (family, phratry, deme, tribe and *dēmos*),[5] and we have clear evidence that membership of at least three of these groups depended upon an oath.

After being accepted by his father, the first stepping-stone to citizenship was acceptance into his father's phratry (clan).[6] This took place at the main phratry festival – the Apaturia – where the sons of phratry members were introduced to the phratry. This happened twice: first when the infant was presented to the phratry to confirm his or her legitimacy (the *meion*),[7] and secondly at around the age of sixteen (the *koureion*). On both occasions the father (or male guardian) made a sacrifice and swore an oath that the child was the legitimate child of two Athenian parents.

Only after these oaths were given would the phratry members vote on their candidacy for enrolment in the phratry. According to Isaeus (7.16):

> Now these bodies have a uniform rule, that when a man introduces his own son or an adopted son, he must swear with his hand upon the victims that the child whom he is introducing, whether his own or an adopted son, is the offspring of

4 Hansen (1991, 94) describes the Athenians as "extremely stingy" about citizenship.

5 Cole 1996, 228.

6 For a detailed study see Lambert 2001, 143–191, especially 163–178. See also RO pp. 34–5.

7 Lambert (2001, 162) notes that "in the normal course of events a male child would be presented to his father's phratry within the first few years of life".

> an Athenian mother and born in wedlock; and, even after the introducer has done this, the other members still have to pass a vote, and, if their vote is favourable, they then, and not till then, inscribe him on the official register; such is the exactitude with which their formalities are carried out.

If successful, sons, adopted sons, and daughters who were legal heirs were entered onto the phratry register along with the names of their father, mother, and deme. The fact that the father was compelled to swear that the child was legitimate on two separate occasions demonstrates both the high value the Athenians placed on legitimacy and the degree of trust they placed in his sworn word.

Oaths were likewise central to the process if a child was rejected.[8] Such decisions were not taken lightly. According to a decree of the phratry of the Deceleans from 396/5 (*IG* ii² 1237.34–8), five officials (*sunēgoroi*) were elected to decide appeals concerning eligibility to join the phratry, and they were required to swear an oath "that they would perform their duties most justly and not allow anyone who was not eligible to be a member of the phratry to enter the phratry" before they heard the case(s). Their oaths were to be administered by the phratriarch and the priest of the phratry. Witnesses who spoke on behalf of the rejected candidate were also required to swear an oath while holding the altar of Zeus Phratrios, an obvious pointer to the threat from the gods posed to those who swore falsely. Witnesses swore "that they were witnessing that the candidate being introduced was the legitimate son of the man introducing him by a wedded wife" (74–113). The fact that in the Athenian courts it was normally only in homicide cases that witnesses were required to swear oaths (see §§5.9, 5.14) shows the importance of this procedure and the oath they swore.

After being admitted into a phratry, an Athenian youth needed to be admitted into his father's deme. The youths underwent a public scrutiny (*dokimasia*) after which they would be recorded on the deme register. Anyone not eighteen years of age, free and legitimate was rejected (*Ath.Pol.* 42.1). Oaths were again crucial with the members of the deme "having sworn" (*omosantes*) before making their decision to accept or reject candidates.[9] If the vote went against the candidate he could appeal against

8 Andocides (1.126) describes how his opponent in the legal case, Callias, when presented with his alleged son at the Apaturia "took hold of the altar" and swore an oath denying that he was the father. He later changed his mind and introduced the boy to his *genos* the Ceryces, swearing that "the boy was truly lawfully begotten by himself, born of Chrysilla".

9 Cole (1996, 232) speculates that the demesmen swore to vote honestly when scrutinizing admissions into the deme.

the decision, but if the case was decided against him in the law-courts he was sold into slavery.

The importance of these phratry and deme oaths can be seen in the fact that each and every Athenian citizen was known by a tripartite name – *onoma* (personal name), *patrōnumikon* (father's name), and *dēmotikon* (deme of registration).[10] Thus, the orator Lycurgus was known by his full name of Lycurgus, son of Lycophron, of the deme Boutadae. The use of this full name was earned only after undergoing the elaborate process underpinned by the oaths described above. His *patrōnumikon* was registered at both the phratry and the deme. The recognition of his *dēmotikon* was the penultimate step towards full citizenship. The final hurdle was the ephebic oath.

2.3 The Athenian ephebic oath

The Athenian ephebic oath is the clearest and fullest example we possess of a Classical period citizenship oath. Although the inscription documenting the oath dates to the middle of the fourth century, and the institutionalized training of ephebes is attested in inscriptions no earlier than 334/3 BC, linguistically the oaths themselves contain many archaizing elements, and scholars typically see the oath as having considerably earlier origins.[11] Indeed, the inscription calls it the "ancestral" oath. Siewert charted fifth-century "echoes" of the language of the oath in the works of Aeschylus, Sophocles, and Thucydides,[12] and Plutarch (*Alc.* 15) has Alcibiades remind his fellow citizens of the ephebic oath just prior to the Battle of Mantinea in 418 BC. Finkelberg has recently argued that Plato casts Socrates making reference to his own ephebic oath in the *Apology* (ca 399–388 BC).[13] Socrates states (Pl. *Ap.* 28e): "I stood guard where they posted me as firmly as anyone and risked being killed" – which bears considerable resemblance to the clause of the ephebic oath that runs

10 Hansen 1991, 96.

11 Siewert (1977, 104) argues, "Since the epigraphic version shows old elements and no demonstrable fifth- or fourth-century traits, an archaic date of origin never seems to have been seriously questioned".Vidal-Naquet (1986, 97) insists, "there is no question about the archaic quality of the 'ephebic oath'." Sourvinou-Inwood (2011, 28–9) likewise argues for an archaic date for the oath. See also Barringer 2001, 47; Scheibler 1987, 108ff.

12 Siewert 1977, 104–7.

13 Finkelberg 2008 *passim.*

"I shall not desert the man beside me, wherever I stand in the line".[14] If so, this passage would provide further evidence of a pre-fourth-century ephebic oath.

It may be that the oath ceremony was depicted on two vase-paintings, both of which would serve as fifth-century evidence for the ephebic oath. The first is a red-figure oinochoe dating to 475–425 BC, which shows a beardless man, facing left, bearing a spear and a shield (emblazoned with a mule), draped with a chlamys, and extending his right hand over an altar.[15] At his left an old bearded man extends his right hand over the same altar. They may be about to clasp hands,[16] but it could also be that they are about to grasp hold of the altar, which would fit well with the fact that oaths at the Apaturia were sworn holding the altar of Zeus Phratrios. To the young man's right stands the goddess Nike holding the youth's crested Corinthian helmet. Girard interpreted the old man as the personification of the Athenian council before whom or representatives of whom the ephebes would take their oath.[17] But the personification of the Athenian people – Demos – seems more likely given that no source explicitly links the ephebic oath to the council, and the bearded figure bears a strong resemblance to the personifications of Demos in fourth-century document reliefs.[18]

The other image from a black-figure amphora dating to 500–450 B.C. shows a young man, wearing a crested helmet and himation, with his shield propped up behind him.[19] He is pouring a libation from a phiale over an altar fire with his right hand; and his left hand is raised. To the right of the altar stands an older man holding a staff in his left hand and also raising his right hand. Morey notes that Brunn and Conze both saw this as a scene depicting an ephebe taking an oath in the sanctuary of

14 This is particularly significant given that Price could argue (1999, 96–7) that oaths like the ephebic oath had been "called into question in the Aristophanic version of Socrates' teaching".

15 For images see Lonis 1994, 40, Conze 1868 (Plate H), and the Beazley Archive #214405.

16 Conze (1868, 266) argues that the absence of flames on the altar suggests that they are about to clasp hands.

17 C. Daremberg and E. Saglio (eds), *Dictionnaire des antiquités grecques et romaines*, vol. 3 (D-E), 624. See fig. 2677.

18 The most obvious example is the Athenian law against tyranny from 337/6 (*SEG* xii 87) which shows the goddess Demokratia crowning the seated Demos. Another useful example is the relief from the Athenian decree from 318/7 honouring Euphron of Sicyon (*IG* ii² 448) which shows Athena and Demos accompanying Euphron.

19 St. Petersburg, State Hermitage Museum 1466 = Beazley Archive #9305.

Aglaurus.[20] Reinmuth argues that it is an ephebic scene,[21] but urges caution given that Pollux (8.64) identifies "the *petasos* rather than the helmet as the distinctive headgear of the epheboi". But we need not worry too much about the fact that neither image shows the youths wearing their distinctive "uniform", for the ephebic oath represents the crossing of the threshold to adulthood. It would make artistic sense for an artist to portray the successful citizen ephebe in his adult armour rather than his felt hat with its connotations of adolescence.

These different representations could help resolve some ambiguity as to whether this oath was sworn before or after the ephebes had completed their two years of military service.[22] Lycurgus (*Leocr.* 76) says the oath was sworn when the youths "are inscribed into the deme register (*lēxiarchikon grammateion*) and become ephebes", which would appear to contradict the sources which state that the ephebic oath was sworn at the sanctuary of Aglaurus (Philochorus *FGrH* 328 F 105; Dem. 19.303; Plut. *Alc.*15).[23] The obvious solution to this problem would be to have the ephebes swear the oath twice, first at their deme where they would be registered,[24] and later in the sanctuary of Aglaurus. Athenian archons swore their oath of office twice (see §3.2) so such an arrangement would not be unparalleled. It is possible that the ephebes swore the oath at their deme at the time of registration, and again at the temple of Aglaurus upon completing their military training, which would fit with the vase-painting depicting an ephebe pouring a libation over an altar whilst wearing his helmet. That would mean that not only would an Athenian youth swear his oath to fight for the state before his military training, he would repeat that oath after his transformation into a full citizen-soldier, thus renewing the oath and imbuing it with greater relevance.

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20 Morey 1907, 144.

21 Reinmuth (1971, 136–7) argues that Conze correctly identifies the scenes as the ephebic oath, but unfortunately conflates the two images observing, "A black-figured vase (certainly to be dated not later than the fifth century B.C.) in the Hermitage in Leningrad pictures a young man standing before an altar, dressed in a chlamys and equipped with shield and spear while Nike holds a helmet in readiness for him".

22 Dittenberger (critical apparatus to *SIG*[3] 527, cited by Plescia 1970, 17) claimed that "it is still disputed whether they took the oath when they entered the Ephebeia…or when they left it".

23 The sanctuary of Aglaurus has been identified off the sheer east end of the acropolis. See Mikalson 2005, 137; Dontas 1983, 57–63. Cf. Herodotus 8.53; Paus. 1.18.2.

24 See Demosthenes 57.60 where Eubulides' father, when demarch of Halimous, is said to have claimed that he had lost the deme register.

Lycurgus (*Leocr.* 77) describes the oath as "a fine and solemn oath". In order to better understand the oath it is worth recapping its main clauses as outlined in the Acharnae stele:

1. I shall not bring shame upon the sacred weapons nor shall I desert the man beside me, wherever I stand in the line.
2. I shall fight in defence of things sacred and profane and I shall not hand the fatherland on lessened, but greater and better both as far as I am able and with all.
3. I shall be obedient to whoever exercises power reasonably on any occasion and to the laws currently in force and any reasonably put into force in the future. If anyone attempts to destroy these, I shall refuse to allow him both as far as is in my power and in union with all.
4. I shall honour the ancestral religion.

The fact that the oath required the ephebes to swear not only to obey the laws but also to honour the ancestral religion led Zaidman and Pantel to claim that the ephebic oath proves that "religion and civic life were mutually and inextricably implicated".[25] Kellogg similarly focuses on the civic aspect to the oath, arguing that the oath "is first and foremost a citizenship oath, not a military one, even though it acquires military connotations with the reforms of Epikrates in the Lykourgan era", and that it is "primarily concerned with the duties of citizenship and not military service".[26] But given that the first clauses obligated the ephebes not to abandon the man beside them, and to fight together, it would be more accurate to say that the oath demonstrates that Athenian military, civic, and religious life were seamlessly linked. This is clear in the fact that Lycurgus (*Leocr.* 76) could summarize the oath for the benefit of the Athenian jurors as "an oath which you take, sworn by all citizens when as ephebes they are enrolled on the register of the deme, not to disgrace your sacred arms, not to desert your post in the ranks, but to defend your country and to hand it on better than you found it", but also later (*ibid.* 79) call it the "oath of the private citizen" (*idiōtēs*). Plescia rightly describes the oath as "a military, civic and religious contract".[27]

The divine witnesses invoked by the ephebes when they swore reflect the multi-faceted nature of their oath. Youthful (Aglaurus, Heracles), warlike (Enyo, Enyalios, Ares, Athena Areia, Heracles), powerful (Zeus), steadfast (Hestia), or just plain Athenocentric (Aglaurus, Auxo, Hegemone, "the boundaries of my fatherland"), the deities invoked as

25 Zaidman and Pantel 1992, 66–7.
26 Kellogg 2008, 357.
27 Plescia 1970, 17.

witnesses not only serve as potential bringers of punishment for violations of the oath, but also mirror the duties the Athenian youth are swearing to uphold. It is worth looking at these deities in more detail.

The first divine witness was the relatively minor local goddess Aglaurus, the daughter of Erechtheus.[28] As a youthful patriotic Athenian who sacrificed herself for the good of the state (Philochorus *FGrH* 328 F 105; Lyc. *Leocr.* 98–100), Aglaurus thus serves not only as a witness to the ephebic oath, but also as the role model *par excellence* for the teenaged ephebes.[29] According to the mythic tradition, when Poseidon's son Eumolpus attacked Athens, Aglaurus' father Erechtheus asked the oracle at Delphi what to do. He received the reply that if he sacrificed his daughter before the two sides engaged he would defeat the enemy (Lyc. *Leocr.* 98). Aglaurus volunteered herself to be that sacrifice, leaped to her death from the Acropolis, and so saved the city.

Philochorus explicitly links Aglaurus' self-sacrifice to the ephebes, observing "when the war was over, they set up a sanctuary (*hieron*) to her for this deed near the propylaia of the city. And there the ephebes swear an oath when they are about to go forth to battle". Euripides in his *Erechtheus* (fr. 370.68–74) even records a tradition that Aglaurus' sisters swore to join her in death, and after they committed suicide Athena ensured that they rose into the aether as Hyacinthid goddesses because "they did not allow themselves to forsake their oaths (*horkoi*) to their dear sister".[30] The manner in which Aglaurus and her sisters sacrificed themselves for the sake of their homeland in accordance with an oath would surely have had added resonance for each ephebe as he swore his oath to stand in the front line and fight for Athens. It is perhaps not

28 Tradition had it that Aglaurus was a goddess by whom Athenian women swore oaths (Bion of Proconnesus *FGrH* 332 F1; Photius s.v. Ἄγλαυρος). Harding (2008, 200) stresses that her invocation in oaths by women is otherwise unsubstantiated.

29 Merkelbach (1970, 280) calls Aglaurus "der Exponent der jungen Menschen". Boedeker (1984, 107) argues that "her self-sacrifice presents an ideological model of patriotic loyalty and courage to the young soldiers". Larson (1995, 40) sees her as "represent[ing] not only the value placed on the ephebes' youth and their perceived connection with the health and welfare of the land as a whole, but also their willingness to devote themselves to the city's service and to die in battle if necessary". Both Sourvinou-Inwood (2011, 29) and Bremmer (1987, 197) cast Aglaurus as "patroness" of the ephebes.

30 Modern scholars typically overlook this version of the myth. A rare exception is Sourvinou-Inwood (2011, 32) who rightly sees Aglaurus as an *exemplum* for the ephebes in her self-sacrifice, but somehow overlooks the significance of her as an *exemplum* in fulfilling an oath as well.

surprising that before the Athenian army went off to war they sacrificed at the sanctuary of the Hyacinthid goddesses. Burkert says that "their death, which was repeated in sacrifice before setting off for war, guaranteed success in the subsequent bloodshed and victory in battle".[31]

Aglaurus' role is thus to provide inspiration to the adolescent Athenians as they embark on their journey to manhood.[32] The work attributed to the fourth-century orator Demades (*On the Twelve Years* 37) refers to the daughters of Erechtheus "triumphing over the feminine in their souls" and says that "the weakness in their nature was made virile by devotion to the soil that raised them".[33] It is worth bearing in mind that the Atthidographers consistently refer to her as *Agraulos* i.e. "she of the fields", not Aglaurus,[34] which hints at the agricultural nature of hoplite warfare and the hoplites that the ephebes will become.[35]

Like Aglaurus, Heracles functions not only as a divine witness to the oath but also as an *exemplum* for the Athenian youth[36] during their transition from youth to adulthood. Burkert calls Heracles "the great prototype of the man who finds his way through the world on his own strength".[37] Heracles was closely associated with the rites of passage in that at the Apaturia the ephebes offered wine to him before cutting off their youthful locks.[38] It is intriguing that the god Apollo, in many ways the ideal youth, has no role in the Athenian citizenship oath. Apollo Delphinius is invoked at Drerus, and Pythian Apollo at both Drerus and

31 Burkert 1983, 66.

32 Sourvinou-Inwood (2011, 48) argues, "when they swore their oath in Aglauros' sanctuary and invoked Aglauros as their first witness, they were aware of, and had undoubtedly been formally instructed about, the story of her self-sacrifice which was correlative with their own association with Aglauros, whose example they were expected to follow".

33 Larson 1995, 104.

34 Harding 2008, 200.

35 Vidal-Naquet (1986, 89) notes, "the hoplite republic is one of farmers". The very cohesiveness of the hoplite phalanx was the result of the common goal of yeoman farmers who fought to protect their livelihoods, which in turn gave them their place as a free member of polis society. Cf. Gaebel 2002, 67; van Wees 2000, 216. Siewert (1977, 110) sees deities such as Aglaurus as having been chosen to represent the "mainly middle-class farmers", rather than allow one of the aristocratic clans to gain social predominance by binding the citizens on oath to a deity such as Athena Polias whose cult was administered by the Eteoboutadae.

36 Merkelbach (1972, 282) refers to Heracles as a "Gott der jungen Krieger".

37 Burkert 1985, 251.

38 Mikalson 2005, 142.

Itanus; but Heracles and Aglaurus appear to play the role that one might expect Apollo to play in the Athenian ephebic oath.

Aglaurus (the daughter of Erechtheus) should not be confused with Aglaurus the daughter of Cecrops,[39] whom Sourvinou-Inwood dismisses as "the foolish girl who disobeyed Athena and died as a result".[40] This Aglaurus also died on the Acropolis which has led to much ancient and modern confusion. According to Pausanias (1.18.2) "Athena gave Erichthonius, whom she had hidden in a chest, to Aglaurus and her sisters forbidding them to pry curiously into what was entrusted to their charge. Pandrosus, they say, obeyed, but the other two (for they opened the chest) went mad when they saw Erichthonius, and threw themselves down the steepest part of the Acropolis". Hyginus (*Fab.* 166), ps.-Apollodorus (3.14.6), and Ovid (*Met.* 2.552ff) have similar versions of the story. There is no "anomaly" where Parker sees one.[41] Aglaurus daughter of Cecrops is always foolish, whereas Aglaurus daughter of Erechtheus can always be a role model for the ephebes.

Aglaurus is not merely an *exemplum* to Athenian youths; she also points to the heart of the city they will defend. One might have expected the Athenians to have invoked the inviolable Athena Polias in their citizenship oath,[42] but in many ways Aglaurus, the virgin goddess with a sanctuary at a precarious point on the Acropolis plays the role that Athena Polias might play. So, too, the next deity invoked, Hestia the goddess of the hearth. Hestia is a goddess who knows a thing or two about oaths, having herself sworn a fearsome oath to Zeus (while touching Zeus' head) to remain a virgin and therefore inviolable (*h.Hom.Aph.* 26–28). Together Aglaurus and Hestia occupy Athena Polias' niche.

Athena is invoked in her own right as a witness in this oath in her capacity as Athena Areia along with the warrior deities Enyo, Enyalios, and Ares. This is Athena in her most warlike guise – as Merkelbach puts it: "als Kriegerin, nicht als Göttin der Handwerker".[43] Aglaurus' unusual prominence may partly explain the absence of Athena's less warlike traits, for according to Photius (α197) Aglaurus was also a title of Athena. The invoking of war deities in a citizenship oath demonstrates the strong connection between citizenship and hoplite warfare. In this context it is

39 Simon 1983, 45 n.23.

40 Sourvinou-Inwood 2011, 48.

41 Parker (1987, 197) confuses the two Aglauruses, and thus he sees her as "first disobedient, then panic-stricken", but later a role model.

42 Both Athena Polias (Itanus) and Athena Poliouchos (Drerus) are invoked in Hellenistic-period Cretan oaths.

43 Merkelbach 1972, 281.

worth bearing in mind the fact that Aeschylus (*Septem.* 42–8) portrayed the mythical Seven invoking Ares, Enyo and "blood-loving Phobos" as witnesses when they swore to capture Thebes or die in the attempt.

Unsurprisingly Zeus is also invoked. As Dowden puts it, "if an oath was worth swearing it was often worth swearing by him".[44] Mikalson speculates that this is Zeus Horkios, the god of oaths.[45] But this is by no means certain. At Athens Zeus was worshipped in many forms including Zeus Boulaios, Zeus Phratrios, Zeus the Saviour, and Zeus Eleutherios to name but a few.[46] It is worth bearing in mind that Zeus of Dicte, Zeus Agoraios and Zeus Tallaios are invoked in later Cretan citizenship oaths. Youths at Drerus invoked Zeus Agoraios, Zeus Tallaios ("Solar Zeus" who has been equated to the giant Talus who safeguarded Europa on the Ida mountain range); Itanian youths invoked Zeus of Dicte, the near local incarnation of Zeus at his birthplace, and Zeus Agoraios.

The other deities invoked are somewhat unusual. These include Thallo and Auxo 'sprouting' and 'growth', Hegemone, 'the leader', and lastly, "the boundaries of my fatherland", wheat, barley, vines, olives, figs. According to Pausanias (9.35.2) Auxo and Hegemone were worshipped at Athens as the two Graces,[47] while Thallo was worshipped in her capacity as a season. Siewert sees Enyo, Enyalios, Thallo, and Auxo as non-Olympian deities "who had become rather obscure in classical times", and interprets their appearance as divine witnesses as an indicator of the age of the ephebic oath.[48] Modern scholars typically interpret "the boundaries of my fatherland, wheat, barley, vines, olives, figs" literally. Thus, Mikalson argues that these were not invoked as gods, but in this context as "revered objects" the ephebes are obliged to defend.[49] But it is tempting to take

44 Dowden 2006, 80.

45 Mikalson 2005, 142.

46 For some of the many titles under which Zeus was worshipped at Athens see Mikalson 2005, 48–9.

47 Mikalson (2005, 142) argues that Hegemone's identity is "uncertain". But the Pausanias passage clarifies her identity. Several fourth-century Athenian triremes were named *Hegemone* (*IG* ii² 1612.111, 122; 1629.771 (skippered by Demosthenes' enemy Meidias); 1631.123).

48 Siewert 1977, 109. Kellogg (2008, 356) points out that Enyalios rarely figures as an independent deity in the Classical period, and is more typically used as an epithet for Ares, and follows Robert (1938) in seeing Thallo and Auxo as a sign of the antiquity of the oath.

49 Mikalson 2005, 143. When discussing these 'deities' Cole (2004, 29) observes that communities shared the food of a common soil and water from a common source, and suggests that the produce of the land invoked here represent these common food sources.

Burkert's suggestion that they are "epitomizing the fruitful, ancestral earth",[50] a step further and link this to oaths in which all the gods of the underworld are invoked by placing the hand on the ground.[51] Alcibiades encouraged the Athenians to see this as entitling the Athenians to empire: Plutarch (*Alc.* 15) claims that Alcibiades encouraged the Athenians not to neglect their interests on land, and explains that "they take oath that they will regard wheat, barley, the vine, and the olive as the natural boundaries of Attica, and they are thus trained to consider as their own all the habitable and fruitful earth".[52]

Alcibiades was by no means the only Athenian political leader to make political capital out of the oath. Mikalson claims that "new citizens could expect to hear it invoked in speeches in the Ekklesia, in the lawcourts, and on the battlefield for the rest of their lives".[53] As noted above, if we can trust Plato at all, it may be that Socrates used his obedience to the oath as part of his defence in his trial for impiety. In his speech against Meidias, Demosthenes (21.188) reminds the jurors that they have sworn to obey the laws (*tois nomois peisesthai*). The phraseology used here fits the ephebic oath much better than the dicastic oath; if Demosthenes had been referring to the latter, he would have said "to vote according to the laws" (*kata tous nomous psēphieisthai*) as he, Lysias, Aeschines, and other Athenian orators did on numerous occasions (§5.4). It appears that Demosthenes was blurring the boundaries between the two oaths in the hope that he would convince the jurors to feel that they might violate their ephebic oath if they acquitted Meidias. Lycurgus used the oath as an integral part of his case against Leocrates for treason in 330 BC, arguing (*Leocr.* 76):

> If Leocrates has sworn this oath he has clearly perjured himself and, quite apart from wronging you, has behaved impiously towards the divine (*to theion*). But if he has not sworn it, it becomes immediately plain that he has been playing tricks in the hope of evading his duty; and for this you would be justified in punishing him, on behalf of yourselves and the gods.

For Lycurgus, the fact that Leocrates left Athens rather than stay there after the disaster at Chaeronea is either a clear violation of his ephebic oath (by taking his flight from Athens, at a time of danger, as equivalent to

50 Burkert 1985, 251.

51 Homer (*Iliad* 14.270ff) has Sleep invite Hera to swear an oath to him laying one hand on the earth and the other on the sea, so that "one and all the gods may be witnesses…even the gods that are below with Cronus".

52 Alcibiades stretches the meaning of the oath to interpret the "wheat, barley, vines, figs and olives" as if they were grammatically in apposition to the "boundaries" instead of being additional items in a co-ordinated list.

53 Mikalson 2005, 143.

desertion from the ranks), or it is part of a deliberate plan to evade his duty as a citizen.

It is significant that Lycurgus argues that the Athenians would be justified in punishing Leocrates "on behalf of the gods". As a well-known religious conservative,[54] and noted 'Laconophile',[55] it might be that Lycurgus was influenced by the Spartan response to cowardice. We know that the Spartans swore an oath of citizenship similar to that sworn at Athens, and we also know that they imposed particularly harsh penalties on those Spartan citizens who displayed cowardice in battle (the so-called "tremblers"). It seems that both Lycurgus and the Spartans were prepared to act on behalf of the gods in order to punish violations of citizenship oaths.

2.4 The oath of the Spartan sworn bands (*enōmotiai*)

Citizenship, oaths, and military service were arguably even more inextricably linked at Sparta than they were at Athens. All Spartan citizens – the so-called *homoioi* or 'Equals' – were members of a "sworn band" (*enōmotia*), the basic military unit that formed the backbone of the Spartan hoplite phalanx. The very name *enōmotia* demonstrates that the oath would have been a prerequisite for joining the unit, and the lexicographer Hesychius (ε3464) described the *enōmotia* as "a unit bound by an oath through blood sacrifices". The name *enōmotia* would have served as a constant reminder to a Spartan of his oath; so, too, the fact that the *enōmotia* was commanded by an officer known as the *enōmotarchēs*. Every time a Spartan citizen served in the phalanx or received an order from his immediate superior he would have been reminded of his oath.

To become a member of one of these "sworn bands" each Spartan citizen underwent the same rigorous regime of training (the so-called Spartan *agōgē*) which produced an elite group of citizens who expressed their relative equality and their collective mentality by dressing in the same red cloaks, wearing their hair long, spending their days exercising together, dining in communal messes, and sleeping in military barracks. It is thought that each *enōmotia* comprised roughly 32–40 men. The members of this unit trained and fought together throughout their lives. They may

54 Lycurgus' religious conservatism can perhaps be best seen in his strong criticism of the proposal to award divine honours to Alexander the Great. Lycurgus' acid response was that worshippers would have to purify themselves upon leaving his temple rather than before entering it (Plut. *Mor.* 842d).

55 For a recent study of Lycurgus and his Laconizing tendencies see Fisher 2007.

even have dined together in the communal messes (*sussitia* or *phiditia*).[56] Indeed, Slater has gone so far as to describe the *enōmotiai* as "the basic sympotic elements in the military structure of the Spartan state".[57] This is an intriguing thought, for it would demonstrate that the Spartans who swore the oath together would have exercised, dined and slept together. The constant presence of the other members of the sworn band in their lives would certainly have given the Spartans' oaths added weight.

Unfortunately the oath sworn by the Spartans has proved elusive, with the earliest and clearest statement coming from the fourth-century AD grammarian Timaeus (*Lex.Plat.* 985b), who indicates that the term *enōmotia* meant a unit of foot-soldiers, and that they swore "not to leave the ranks" (*mē leipsein tēn taxin*). This information is repeated by Photius (ε1072 = Σ Xen. *Anab.* 4.3.26). But considering the number of separate clauses in the Athenian ephebic oath it seems unlikely that the Spartan oath could have been so brief – even taking into account Spartan *brachulogia*. Recently, van Wees has argued persuasively that the oath of the sworn bands can be found buried within the oath the Greeks allegedly swore prior to the Battle of Plataea in 479 BC.[58] He sees the Spartans compelling the rest of the Greeks to swear an oath that incorporated their own citizenship oath prior to the climactic battle against the Persians, so that "in their last-ditch defence against the invaders, all allies merged, as it were, into one giant sworn band".[59] The approach van Wees adopts is to extract from the reports of the oath sworn prior to Plataea the elements that are (or could be) uniquely Spartan in order to reconstruct the oath as follows:

> I will fight while I live, and will not regard being alive as more important than being free. And I will not leave my taxiarch or my enomotarch, whether he is alive or dead. And I will bury the dead among my fellow-fighters, and leave no-one unburied.

This reconstruction has the Spartans swearing: (1) to fight to the death (and to prefer freedom to life); (2) to stand by their commanders; (3) to bury the dead. The second clause bears more than a passing resemblance to the limited information Timaeus and Photius provided about the oath,

56 For a brief discussion of the evidence suggesting that the *enōmotiai* were composed of a certain number of common messes, see Lazenby 1985, 13, 176 n21. Vernant (1995, 228) discusses the link between commensality and military organization described by Herodotus, who has (1.65) Lycurgus (after creating the laws) instituting the military institutions, the *enōmotiai*, *triēkades*, and *sussitia*.

57 Slater 1991, 93.

58 van Wees 2006. For the oath itself see RO 88; Lyc. *Leocr.* 81; D.S. 11.29.3.

59 van Wees 2006, 151.

and together these three clauses could easily be summarized as an oath "not to leave the ranks".

The impact of these clauses on the mentality of the Spartans can be seen in the compulsion the Spartans felt to hold their place in the line, and to defend the body of the king. Herodotus' characterization (7.225) of the Spartans fighting with their hands and teeth at Thermopylae certainly fits with an oath to fight to the death.[60] The desperation with which the Spartans at Thermopylae fought to defend Leonidas' body after he fell (Herodotus 7.225) is also very much in keeping with an oath never to abandon their officers,[61] and to bury the dead. Already effectively bound to defend the king,[62] such an oath would see the Spartans as doubly bound to maintain their place in the phalanx and to protect Leonidas' body. Fighting to the death, standing by the officers, and burying the dead go together with victory.[63] Fulfilling the oath should lead to victory; defeat is only possible in death. But death too will fulfil the oath.

An oath to win or die trying bears more resemblance to the military oath sworn by the Seven against Thebes than to the Athenian ephebic oath. Whereas the Athenian ephebes swore to not desert the man beside them, according to Aeschylus (*Seven* 42–8) the Seven swore: "I will either raze the city of the Cadmeans to the ground, sacking it by force, or I will die and mix my blood with the earth". But the idea that the Spartans swore an oath to fight until they died is hardly inappropriate given that the Spartans were raised on a diet of Tyrtaeus' poetry which taught them that "to fall and die among the fore-fighters is a beautiful thing for a brave man who is doing battle on behalf of his country", and exhorted them

60 van Wees 2006, 128.

61 The "enomotarch" is obviously a Spartan officer. Modern scholars have sought to distance the taxiarch from the Spartan army, but there is clear evidence that the Spartans employed officers called taxiarchs (Hdt. 9.53).

62 Xenophon (*Lac.Pol.* 15.7) indicates that every month the Spartan Ephors swore on behalf of the *polis* that "while the kings abided by their oaths [to rule according to the laws] they would keep the kingship unshaken". The Ephors swore this oath on behalf of the entire citizenry. Together with an oath never to abandon their officers, this should have kept the Spartans rooted to their spot in the phalanx. It is possible that the officers were required to swear an oath to stand by their superiors, and so on upwards to the kings who commanded the armies. That would account for the rather surprising notion that Spartan rankers swore only to stand by their taxiarchs and enomotarchs and not the kings.

63 It is worth remembering that burial on the field of battle is an exceptional honour everywhere except Sparta where it was the norm (van Wees 2006, 132). For a recent study of Spartan gravestones see Low 2006.

> Do battle then, young men, standing firm beside each other, check every impulse to shameful fear or flight, make the spirit within your hearts great and valiant, and do not love life too much as you fight the foe (Tyrtaeus fr. 10.15–18).[64]

The message from Tyrtaeus' poetry is certainly in keeping with an oath to fight to the death. Such was their reputation for fighting to the death that Thucydides claims (4.40) that when the Spartans surrendered at Sphacteria in 425 BC

> nothing that happened in the war surprised the Greeks so much as this. It was the opinion that no force or famine could make the Lacedaemonians give up their arms, but that they would fight on as they could, and die with them in their hands: indeed people could scarcely believe that those who had surrendered were of the same stuff as the fallen.

An oath to fight to the death would go a long way toward explaining why the Spartans were normally so committed to the fight.

The Oath at Plataea also provides us with a glimpse of the ritual that might have accompanied the swearing of the Spartan citizenship oath. The inscription recording the oath describes how the swearers placed their shields on the sacrificial victims as they swore their oath. Having accepted van Wees' hypothesis that this oath was based on the Spartan oath of the *enōmotiai*, it is tempting to see this as a peculiarly Spartan rite. It does appear at the very least to be a ritual associated with Peloponnesians. Xenophon (*Anab.* 2.2.9) reveals that when the Spartan commander of the Ten Thousand, Clearchus, concluded an alliance with the Persians who had fought for Cyrus, they sealed their oaths "by sacrificing a bull, a wolf, and a boar over a shield".[65] This elaborate ritual is not unlike that in the Oath at Plataea, and it bears more than a passing resemblance to Aeschylus' portrayal (*Seven* 42–48) of the Seven who "slaughtered a bull over a black shield, and then touching the bull's gore with their hands swore an oath", which has added significance when one considers that five of the Seven were Peloponnesian.

We are unfortunately in the dark as to which deities were invoked in the oath ritual, but it seems likely that youthful archetypes such as the Dioscuri (Castor and Pollux),[66] Hyacinthus, Apollo and perhaps also the

64 For a discussion of the Spartan concept of the 'beautiful death' see Loraux 1977.

65 The majority of the senior officers among the Ten Thousand were Peloponnesian. Clearchus was joined by his fellow commanders the Spartan Cheirisophus, the Stymphalian Sophaenetus, Xenias the Arcadian, and Socrates the Achaean. The other major commanders were Sosis of Syracuse (a Dorian), Menon the Thessalian, and Proxenus the Boeotian.

66 When swearing informal oaths the Spartans typically invoke the "Twin Gods" (saying *nai tō siô*), i.e. Castor and Pollux (Ar. *Peace* 214; *Lys.* 81, 86–7, 90–1, 142–3,

Leucippides (Phoebe and Hilaeira) would have witnessed the Spartan youths swearing their oaths. Pausanias (3.20.1–2) indicates that there was a shrine called the Phoibaion near Therapne where the youths sacrificed a puppy and staged a boar fight. Within the Phoibaion there was a sanctuary of the Dioscuri.[67] It is tempting to think that this is the location whereby young Spartans would swear the sworn-band oath. This would have Phoebe and the Phoibaion appear to play a similar role with regard to the youths on the cusp of citizenship at Sparta as that of Aglaurus and her shrine at Athens.

We have already seen that Lycurgus attempted to use the Athenian ephebic oath as part of an attack on Leocrates for cowardice and treason. Lycurgus argued that men should take matters into their own hands and punish such oath-breakers themselves rather than wait for the gods to do it. With this in mind it is worth considering the penalties the Spartans meted out to those who failed to show bravery in battle, the so-called "tremblers" (*tresantes*). Not only would "tremblers" be failing to live up to the civic standard, they would also be violating an oath to fight to the death alongside their fellow citizens. This could easily be what the exiled Spartan king Demaratus means when he tells Xerxes that the Spartans "are free, yet not wholly free: custom (*nomos*) is their master, whom they fear much more than your men fear you. They do whatever it bids; and its bidding is always the same, that they must never flee from the battle before any multitude of men, but must abide at their post and there conquer or die" (Hdt. 7.104). Herodotus later explains what Spartan *nomos* decrees for those who fail to measure up when he describes the fate of the survivors of the fight to the death at Thermopylae. According to Herodotus (7.231–2):

> When Aristodemus returned to Lacedaemon, he was disgraced and without honour. He was deprived of his honour in this way: no Spartan would give him fire or speak with him, and they taunted him by calling him Aristodemus the 'trembler'. In the battle at Plataea, however, he made up for all the blame brought against him. It is said that another of the three hundred survived because he was sent as a messenger to Thessaly. His name was Pantites. When he returned to Sparta, he was dishonoured and hanged himself.

Xenophon (*Lac.Pol.* 9) describes more penalties for tremblers:

983–4, 1093–5, 1103–5, 1168–71, 1174; Xen. *Ages.* 5.5, 6.6.34, 7.6.39; *Hell.* 4.4.10), or Castor alone (*nai ton Kastora*) (Ar. *Lys.* 206, 988–9). The fact that the Dioscuri were resident in Spartan territory at Therapne on alternate days presumably gave their oaths greater weight.

67 Larson 1995, 66–7.

> Clearly, what he [Lycurgus] did was to ensure that the brave should have happiness, and the coward misery (*kakodaimonia*). For in other states when a man proves a coward, the only consequence is that he is called a coward. He goes to the same market as the brave man, sits beside him, attends the same gymnasium, if he chooses. But in Lacedaemon everyone would be ashamed to have a coward with him at the mess or to be matched with him in a wrestling bout. Often when sides are picked for a game of ball he is the odd man left out: in the chorus he is banished to the ignominious place; in the streets he is bound to make way; when he occupies a seat he must needs give it up, even to a junior; he must support his spinster relatives at home and must explain to them why they are old maids: he must make the best of a fireside without a wife, and yet pay forfeit for that: he may not stroll about with a cheerful countenance, nor behave as though he were a man of unsullied fame, or else he must submit to be beaten by his betters. Small wonder, I think, that where such a load of dishonour (*atimia*) is laid on the coward, death seems preferable to a life so dishonoured, so ignominious.

Plutarch (*Ages.* 30) provides further details:

> Such men are not only debarred from every office, but intermarriage with any of them is a disgrace, and anyone who meets them may strike them if he pleases. Moreover, they are obliged to go about unkempt and squalid, wearing cloaks that are patched with dyed stuffs, half of their beards shaven, and half left to grow.

Modern studies of tremblers typically see the punishments meted out such as exclusion from the messes, the gymnasium, games, and being forced to dress differently to other *homoioi* as civic or secular measures.[68] In a recent study, Ducat compares the status of Spartan tremblers to those suffering *atimia* at Athens. Given that the term *atimia* at Athens might mean only the loss of the right to speak in the assembly or to hold office, Ducat concludes that because no one would argue that a man who lost his citizen rights at Athens was no longer a citizen, the same should be said for Sparta. Like Ducat, Schwartz sees these as secular punishments. But this approach relies on a very Athenocentric view of the term *atimia*, which is not particularly surprising given that so many of our sources are Athenian in origin. But if we think of *atimia* more literally, i.e. as a loss of honour, we can draw a rather different conclusion about what being a trembler might mean. If being a 'trembler' meant not loss of citizen duties, but being "disgraced", "worthless", or "honourless" the crime could be

68 Pritchett (1974, 235–6) sees the 'tremblers' as undergoing a civic trial (by kings, ephors and elders). He based this on the trial of King Pausanias in 403 (Pausanias 3.5.2, 5). But this trial has little or nothing to do with the subject of 'tremblers'. David (1989, 14) treats the penalties as "legal sanctions". Kennell (2010, 157–8) likewise focuses on the "legal" penalties. Ducat (2006) provides the most detailed modern survey of the source material for tremblers.

seen to be religious as much as secular. At highly religious Sparta there may not have been a real distinction between the two categories.

It is entirely possible then that the penalties imposed on tremblers were a case of the Spartans punishing wrongdoers "on behalf of themselves and the gods" as the philo-Laconian Lycurgus (*Leocr.* 76) put it. The type of social exclusion that our sources describe could reflect the fact that the tremblers are to an extent polluted because they have violated their oath to fight until they die. Even Athenian cowards (i.e. those who dropped their shields in battle) were barred from entering sanctuaries (Lys. 10.9) which is certainly food for thought – for such a measure should surely indicate pollution.[69] As polluted perjurers, Spartan tremblers are shunned, for the highly religious Spartans would surely have wanted to avoid incurring the wrath of the gods by being seen to truck with oath-breakers. Openly shunning the oath-breakers would show the gods that the Spartans were not standing idly by while the tremblers violated their oaths to those same gods. They also compelled tremblers to dress differently. In a society where everyone looks, dresses, and acts the same, what better way to distinguish the impious? What at first glance appear to be civic penalties could be seen to be clear signals to the gods that these men were being punished. Schwartz sees *atimia* combined with social ostracism as a means of ensuring that the 'tremblers' "lived the rest of their lives as outcasts".[70] But one suspects that the aim of the punishment was to ensure that "the rest of their lives" did not prove to be a long period of time. The objective was probably to drive the tremblers to suicide. After all, Pantites committed suicide precisely because he had been deemed a 'trembler', and although Aristodemus went "berserk" (*lussōnta*) and fought bravely at Plataea the Spartans believed he did not deserve the prize for bravery because he had wanted to die.

Tritle discusses the case of Aristodemus and argues that "what drove him to go 'berserk' at Plataea was not a desire to die but rather to restore his name and reputation, his status in the community".[71] This is true to an extent – Aristodemus clearly was trying to restore his name and reputation, but that is not inconsistent with wanting to die. Herodotus thought Aristodemus was the bravest and argued that the Spartan

69 The rest of the penalties imposed on Athenian cowards were very harsh, and could perhaps be seen to be greater than political in function. According to Lysias (10.9) those who lost their shield were made *atimoi* and barred from speaking in the assembly, serving as jurors, bringing a prosecution or giving evidence in court, and entering the marketplace as well as entering a sanctuary.

70 Schwartz 2009, 151.

71 Tritle 2007, 182.

dismissal of his bravery might be petty jealousy. Tritle praises Herodotus for not being deceived by Spartan "gossip and backbiting", and compares Aristodemus' case to the 1902 novel *The Four Feathers* by A.E.W. Mason, in which the protagonist is given four white feathers as a token of cowardice by his friends and fiancée, but redeems himself in their eyes through acts of extreme bravery. But the stigma of being a trembler was far worse than receiving a white feather from one's friends and loved ones. The Spartans understood that Aristodemus wanted to die because he was irredeemably tainted by his failure to fight until he died alongside his fellow citizens at Thermopylae. According to Herodotus (9.71) those Spartiates present "gave as their judgement that Aristodemus had openly wanted to die to redress the dishonour that lay on him, and that the great deeds (*megala erga*) he did that day were those of a man crazy and leaving his rank". Crucial is surely the judgement that he left the ranks – given that he had already stood accused of violating his oath to stand by his officers and fight and die, an accusation of having left his commanders *again* would have ruined any chance that the Spartans might think Aristodemus was brave rather than desperate. That Lycurgus prosecuted Leocrates for cowardice and made such strong reference to his violation of the ephebic oath may be a sign that the philo-Laconian orator wanted to employ a very Spartan-style interpretation of the Athenian laws. The only serious stumbling block to the thesis presented here is the fact that our sources do not explicitly link the status of tremblers with oaths. But it would be by no means the first time that our key sources failed to understand what was really going on at Sparta. Herodotus' failure to accept the judgement of the Spartans regarding Aristodemus is a case in point.

2.5 Citizenship oaths in new states

A rather different oath appears to have been required of the citizens of a completely new city who ceased to be citizens of their motherland and became citizens of the new city they founded. Given the paucity of information regarding citizenship oaths of any kind we are extremely fortunate that a version of the oath of the seventh-century Greek colony of Cyrene in Libya has been preserved on a fourth-century document (ML 5). Now is not the place to discuss the authenticity of this document in detail. This has been debated by many modern scholars, and it seems safe to assume that the fourth-century Cyrenaeans at the very least wanted the document to appear genuine, and therefore it must have borne considerable resemblance to the actual oath sworn by the original

Cyrenaean colonists.[72] The text describes a decision by the Cyrenaeans to extend citizenship of Cyrene to Therans resident in Cyrene, and concludes with what it calls the "oath of the colonists" (*horkion tōn oikistērōn*), which is recorded as follows:

> Resolved by the assembly. Since Apollo spontaneously told Battus and the Therans to colonise Cyrene, it has been decided by the Therans to send Battus off to Libya, as Archagetes and as King, with the Therans to sail as his hetairoi. On equal and fair terms they shall sail according to family (?), with one son to be conscripted [. . .] adults and from the other Therans those who are free-born [. . .] shall sail. If they establish the settlement, kinsmen who sail later to Libya shall be entitled to citizenship and offices and shall be allotted portions of the land which has no owner. But if they do not successfully establish the settlement and the Therans are incapable of giving it assistance, and they are pressed by hardship for five years, from that land shall they depart, without fear, to Thera, to their own property, and they shall be citizens. Any man who, if the city sends him, refuses to sail, will be liable to the death penalty and his property shall be confiscated. The man harbouring him or concealing him, whether he be a father (aiding his) son, or a brother his brother, is to suffer the same penalty as the man who refuses to sail.

To summarize more clearly, the citizens of the new *polis* of Cyrene thus swore that they would:

1. obey Apollo's command to found a new colony in Libya;
2. allow their Theran kinsmen citizen rights and land-holdings if they migrated to the new colony;
3. not return for at least five years;
4. not refuse to accept their commission to found the new colony.

The document goes on to explain the elaborate curse against transgressors:

> They made waxen images and burnt them, calling down the following curse, everyone having assembled together, men, women, boys, girls: "The person who does not abide by this sworn agreement but transgresses it shall melt away and dissolve like the images – himself, his descendants and his property; but those who abide by the sworn agreement – those sailing to Libya and those staying in Thera – shall have an abundance of good things, both themselves and their descendants".

72 For modern discussion of the authenticity of the document see Robertson 2010, 283–4; Buckley 1996, 28; Faraone 1993; Jeffery 1961; Graham 1960. Roisman (2011, 63) recently noted that the authenticity of this oath is favoured more often than not.

Once sworn, this oath transformed the Theran colonists into citizens of the new *polis* of Cyrene.[73] Several modern scholars have seen a theatrical or even magical quality to the whole procedure, with Fletcher arguing that the oath has a "script-like quality", and that the new naturalized Cyrenaean citizens "enact the same drama as their earlier counterparts, and like them assume their new role as citizens of Cyrene".[74] Fletcher thus sees a twofold magical transformation taking place in Cyrene, once when the original colonists changed from Therans in Cyrenaeans, and again when the Theran resident aliens in Cyrene became Cyrenaeans as their predecessors once had. Robertson argues that the "virtual black-magic…suits the imaginary circumstances of the oath", and argues that the "fiction" of the older oath fulfils an objective of forestalling any Cyrenaean discontent about the enrolment of Therans into their citizen body.[75]

But while a "magical" transformation is taking place, this does not mean that the ceremony was not taken seriously, or that it was not largely replicating an oath ceremony that had taken place centuries earlier. The oath sworn by the new Cyrenaeans is far more like an oath that might accompany a legal contract than a magical spell or a script. The fourth-century Cyrenaeans clearly decided that they wished to extend this "contract" to include the Theran citizens currently residing in Cyrene. These new citizens would agree to that contract, made by the original colonists several centuries earlier. Just as the Athenian ephebic oath, or the oath of the Spartan sworn bands, were designed to facilitate trust between citizens on the field of battle, the reapplication of the Cyrenaean oath was designed to ensure that the citizens of the Libyan city lived together in harmony. The fact that they left the inscription on display for all to see was clearly a key part of that plan.

2.6 Oaths in synoecisms

An oath somewhat akin to a citizenship oath was required when two separate *poleis* united, thus making two bodies of citizens into one. Such oaths are a cross between citizenship oaths and the oaths that accompanied interstate agreements such as alliances. We are fortunate indeed to have a well preserved document outlining the synoecism agreement between Orchomenus in Arcadia and the neighbouring

73 For more see Fletcher 2012, 242.

74 Fletcher 2012, 242.

75 Robertson 2010, 283–4.

community of Euaemon ca.360–350 (*IPArk* 15). According to the text, when the Euaemnians joined the Orchomenians they swore:

> I will be guileless in the synoecism with the Orchomenians with regard to the agreement, by Zeus Ares, by Athena Areia, by Enyalios Ares. I will never move away from the Orchomenians, not by Zeus Ares, not by Athena Areia, not by Enyalios Ares.

The Orchomenians, who were allowing/encouraging the Euaemnians to join them swore:

> I will be guileless in the synoecism with the Euaemnians with regard to the agreement, by Zeus Ares, by Athena Areia, by Enyalios Ares. I will never drive away the Euaemnians, not by Zeus Ares, not by Athena Areia, not by Enyalios Ares.

This agreement is backed up by an explicit curse. To those who keep their oaths will come "good things" (*t'agatha*), to those who break it, destruction of themselves and their kin (*autos kai genos*).

The slightly different oaths show us potential tensions between the two groups. Whereas the Euaemnians swear that they will not move away from the Orchomenians, the Orchomenians promise not to drive them away. This might tempt us to think that the Orchomenians are the stronger of the two communities, and indeed the Copenhagen Polis Project inventory suggests that Euaemon probably continued to exist as a separate entity and may have become a dependent polis within the territory of Orchomenus.[76] Even so, the Orchomenians were clearly prepared to make concessions with regard to future renewals of the oath. The text goes on to state that in the future the people of the newly synoecized community of Orchomenus will renew their oaths, and that the oath ceremonies (*ta horkia*) should then be the same, whereas previously the citizens of the two communities swore different oaths. However, it is clearly stated that the citizens who were formerly from the city of Euaemon will be able to swear their old oath and will not be compelled to swear the oath of the Orchomenians. The Orchomenians clearly hope that they will all be one happy family when the oaths are renewed, but the possibility that the Euaemonians might not exactly feel that way is clearly built in to the system. The idea that they might want to swear their own oaths is vital, and the importance of regional oath rituals in interstate agreements will be discussed below (§8.2).

76 Hansen & Nielsen 2004, 511.

3 Oaths of office
(*A.J. Bayliss*)

Just as many modern kings and queens, Presidents, Prime Ministers, MPs, and police officers swear an oath before taking up office, so, too did anyone about to take office in the Greek city. Any office worth holding would have had an oath of office.[1] We have a wealth of information about oaths of office from literary and epigraphic sources from throughout the Greek world. But somewhat inevitably the majority of our evidence is Athenian in origin. Some of the earliest attested oaths are oaths of office, but the texts are typically too fragmentary or terse to be properly understood. A prime example is a seventh-century document from Drerus in Crete (ML 2) which may be the earliest extant Greek law preserved on stone. The text refers to the oaths sworn by the leading officials of the state, the *kosmoi*, the *damioi*, and the so-called "Twenty of the *polis*". The document reads:

> May the god destroy. The city has thus decided; when a man has been *kosmos*, the same man shall not be *kosmos* again for ten years. If he does act as *kosmos*, whatever judgements he makes, he shall owe double, and he shall lose his rights to office, as long as he lives, and whatever he does as *kosmos* shall be nothing. The swearers shall be the *kosmos*, the *damioi*, and the Twenty of the *polis*.

This presumably means that the *kosmoi*, the *damioi* and the "Twenty" all swore that they would not allow anyone who had held the office of *kosmos* in the last ten years to serve as *kosmos* again. It seems likely that this is an addition to existing oaths of office. Presumably the *kosmoi*, *damioi* and "Twenty" already swore an oath to exercise the duties of their office in accordance with the laws, and this new clause was a later addition. Although we are in the dark regarding many oaths of office, we can say for certain that oaths were an important stepping-stone on the journey through the Greek political world, and were clearly thought to be a means

1 The same cannot be said of all important modern offices. In the UK the only oaths sworn by the Prime Minister or Cabinet Ministers are those of an MP and of a Privy Counsellor (the latter relating only to Privy Council business). In Denmark all official oaths have been abolished (though a solemn affirmation has taken their place). Cf. Rhodes 2007, 220 n.4.

of ensuring that officials governed according to established practices. At the very least they were seen to be a mechanism for punishing those who committed wrongs whilst holding political office. Cole sees oaths of office as "a powerful public expression of collective approval and disapproval" by the populace.[2] The following micro-case-studies are intended to demonstrate the range and complexity of oaths required for holding office in the Archaic and Classical Greek world, whether they be oaths of royalty, high office, or even relatively unimportant officials.

3.1 Royal oaths

When it existed, normally the highest "office" in the Greek world was that of king (*basileus*).[3] We are very fortunate that we have very clear and largely reliable evidence for the oaths sworn by the most important monarchs in the Classical Greek world – the Spartan kings.[4] According to Xenophon (*Lac.Pol.* 15.7) every month the two Spartan kings swore "to rule according to the laws of the *polis*", and in return the Ephors swore on behalf of the *polis* that "while the kings abided by their oaths they would keep the kingship unshaken". Presumably the ephors were swearing that they would preserve the kingship of the particular king with whom they were exchanging oaths rather than the institution of kingship.[5] One can only assume that the Spartans felt the need to renew these oaths every month rather than annually because they did not think that an annual oath would be sufficient motivation for the kings to behave properly.[6]

Plato (*Laws* 684a–b) dates these oaths to the time when the Peloponnese was partitioned into three states – Argos, Sparta and Messene. He claims that the kings of each state (Temenus was king of Argos, Cresphontes was king of Messene and Procles and Eurysthenes were kings of Sparta) swore "that they would rule according to the

2 Cole 1996, 227.

3 This was not the case at Athens where the archon *basileus* was in fact the second highest office!

4 Technically Sparta was not a monarchy but a diarchy.

5 It is interesting to note that in the Netherlands William the Silent would later cite this reciprocal relationship between monarch and populace in order to remind his vassals in Brabant that their duty was to support their prince and keep him to his oath as the ephors did in Sparta. Cf. Rawson 1969, 162.

6 It was probably for the same reason that the Athenians voted ten times a year (every prytany) on whether the magistrates were doing their jobs properly (*Ath.Pol.* 43.4, 61.2).

established *nomoi*; and that they would come to the aid of the king(s) and people of any of the three states swearing the oath if the king(s) wronged the people or vice versa". The peoples of each state swore that "as long as the kings kept their oath, they would never attack the monarchy nor allow others to do so; and that they would come to the aid of the king(s) and people of any of the three states swearing the oath if the king(s) wronged the people or vice versa".

Isocrates links the Spartan conquest of Messenia to the breaking of this oath.[7] According to the speech attributed to Archidamus, the Spartans had remained faithful to the agreements and oaths their forefathers made, whereas the Messenians killed the Heraclid king Cresphontes thus violating their oath of loyalty. According to this "obviously pro-Spartan story",[8] the children of Cresphontes fled as suppliants to the Spartans, offering their kingdom in return. The Spartans – after consulting the oracle at Delphi, naturally – launch a successful invasion of Messenia. As Luraghi points out, the message has an obvious subtext – "the Dorians of Sparta were the only ones who had kept their word – witness the fact that only Sparta was still ruled by Heraclid kings" (Isoc. 6.22–3).[9] Archidamus goes on to add (*ibid.* 24) that "we inhabit Lacedaemon because the sons of Heracles gave it to us, because Apollo directed us to do so, and because we fought and conquered those who held it; and Messene we received from the same people, in the same way, and by taking the advice of the same oracle". Archidamus' message is clear – the gods are on Sparta's side because the kings and people kept their oaths, and that is why they have the right to possess Messenia.[10]

It may be that we have a hint of a reference to the Spartan royal oath in Plutarch's *Agesilaus*. Shipley sees Plutarch's reference to Agesilaus currying favour with both his friends and his enemies to such an extent that the ephors punished him for "making the state's citizens into a personal following" (*Ages.* 5.6) as a case of Agesilaus breaking his oath to rule according to the laws. Agesilaus was fined for his behaviour, which may be another case of the Spartans imposing a secular punishment for

7 Plato indicates that the kings did not break their oath, but they subsequently disagreed about it thus sowing the seeds of their own downfalls. By this Plato must mean only Temenus and Cresphontes, because the Spartan royal house remained unshaken (as sworn) until deep into the Hellenistic period.

8 Luraghi 2008, 61.

9 Luraghi 2008, 62.

10 Euripides' lost tragedy *Cresphontes* from ca.430–424 had Cresphontes dispatched by another Heraclid, Polyphontes, and then avenged by his son Cresphontes. Luraghi (2008, 61) sees the versions of the story which do not have the Messenians breaking their oath as legitimizing Messenian claims to statehood.

what was both a secular and a religious crime. Another possible reference to the oath comes from Plutarch's account of the period immediately before the Battle of Coronea in 394 BC. According to Plutarch (*Ages.* 17), when Diphridas the ephor met Agesilaus in central Greece and gave him orders to invade Boeotia immediately, Agesilaus did so, despite the fact that he had planned to take some time to gather reinforcements. Agesilaus' reasoning that "he saw no cause to disobey the magistrates" is food for thought when it comes to Agesilaus' attitude to his oath to rule according to the laws. One wonders what would have happened if he *had* seen fit to disobey his orders!

We are less fortunate when it comes to evidence for oaths sworn in the only other important monarchy in the Classical Greek world – Macedon. The dearth of evidence is probably partly due to the fact that Macedon was very much on the fringes of the Greek world until the mid-fourth century. We do, however, possess evidence of a very similar set of oaths to those exchanged at Sparta being exchanged in the kingdom of Epirus which neighboured Macedon. There it was customary for the kings, after sacrificing to Zeus Areios, to swear an oath to rule according to the laws, while the people swore to maintain the kingdom according to the laws (Plut. *Pyrrh.* 5). Because of the geographical proximity of Epirus to Macedon, many modern scholars argue that a similar oath would have been sworn upon the accession of Macedonian kings. But this is by no means clear-cut, and until quite recently scholars have been forced to rely almost entirely on the Epirot oath for evidence of a Macedonian oath by either the king or his subjects.[11] It is worth reconsidering the evidence we have for an exchange of oaths between the Macedonians and their king.

We shall start with the evidence for an oath of loyalty by the Macedonian populace. Each Macedonian king was acclaimed as such by the Macedonian citizens who had assembled for the purpose of choosing a king.[12] Justin (7.5.10), speaking of Philip's election as king, writes *compulsus a populo regnum suscepit.*[13] It seems likely that the assembled Macedonian populace did more than hail Philip as its king, for Curtius (7.1.29) has Amyntas son of Andromenes remind Philip's successor Alexander the Great that the Macedonians "one and all" had sworn "that they would have the same friends and enemies" as the king when he was hailed as king after his father's assassination. But the majority of our

11 Hammond 1967, 527, 538–9; Hammond and Griffith 1979, 386.

12 Errington 1993, 7.

13 Hammond and Griffith (1979, 390) cite this passage to assert that the Macedonian king was not merely acclaimed as such by the Macedonian army, but rather whichever citizens were available at the time.

evidence for a Macedonian loyalty oath comes from the Hellenistic period, which has led some modern scholars to urge caution.[14] Justin (24.5.14) reports that after the death of Ptolemy Ceraunus and the deposition of Antipater "Etesias", the Macedonian general Sosthenes took command of affairs in Macedon, but refused to accept the oath of loyalty as king, but received it instead as merely a general.[15] Eumenes of Cardia swore an oath to be loyal to the dowager-queen Olympias and the joint-kings Philip Arrhidaeus and Alexander IV and to have the same enemies and friends (Plut. *Eum.* 12).[16] Curtius tells us (10.7.9) that after Alexander's death the leading Macedonians agreed that they would wait until Roxane had given birth to Alexander's child and swore that "they would be in the power of a king born of Alexander". This came after the common people (*vulgi*) had already hailed Alexander's half-brother Arrhidaeus as king with the regnal name Philip, and before the phalangites had clashed their spears against the shields as an indication that they were prepared to spill the blood of anyone who "aspired to a rule to which they had no claim". This fits well with a scenario in which the Macedonian rank and file had just sworn an oath of allegiance.

The strongest evidence for a Macedonian royal oath comes from the Hellenistic Successor kingdoms rather than Macedon itself. We have clear evidence for a Ptolemaic oath of allegiance. Polybius (15.27.11) has Agathocles, regent for the infant king Ptolemy V Epiphanes, compel "the soldiers" (presumably the phalangites) to swear "the oath they were accustomed to take on the proclamation of a new king" in 203 BC. Most modern discussions of the possibility of an oath of allegiance have overlooked this passage. For Hammond, finding this passage was enough for him to go beyond his earlier caution on this matter and argue emphatically that such an oath was sworn in Classical Macedon.[17] Justin (24.5.14) indicates that the Seleucid army swore an oath of loyalty to the new king Demetrius I Soter. This oath is explicitly said to have been

14 Anson 1995, 313; Carney 1996, 24 n.31.

15 This is not the only passage that makes it clear that Macedonian generals received oaths of loyalty. After Eumenes' Macedonian troops betrayed him to Antigonus the One-Eyed he complained that they had broken sacred oaths to him (Justin 14.4.3).

16 Antigonus the One-Eyed who had royal ambitions attempted to compel Eumenes to swear an oath of allegiance to him (and mentioned the kings "for form's sake"), but Eumenes redrafted it so that he swore loyalty to Olympias and the Kings. Antigonus' Macedonian troops considered this oath to be more just than the oath that Antigonus had proposed. Understandably Antigonus was angry when he learned of the changes.

17 Hammond 2000, 148.

sworn by the soldiers of Demetrius' father Seleucus IV, which is slightly odd given that Antiochus IV and Antiochus V had ruled in the meantime. If oaths of loyalty were normal in both Hellenistic Macedon and the Successor kingdoms that grew out of that kingdom, it seems reasonable to assume that the Macedonian populace would have sworn an oath of loyalty to the king in the Classical period.

It is worth also bearing in mind that Thucydides (2.99) clearly states that the Macedonian race includes also the Lyncestians, Elimiotes and other tribes of the upper country, which, though in alliance (*summacha*) with the nearer Macedonians and subject to them, have kings of their own. This must be a reference to a sworn alliance between the Macedonian tribes, perhaps as part of an oath of loyalty. Xenophon (*Hell.* 5.2.38) has the Spartan Teleutias write to Derdas of Elimia reminding him that the Macedonian king Amyntas was the "greater" (*meizō*) power in Macedon and that he was the "lesser" (*elattō*) power. Such a power imbalance would suit an oath of loyalty.

A natural counterpart to an oath of loyalty by the populace would be an oath by the new king to his people. One was received in Sparta and Epirus, so it seems natural that one would be given in Macedon too. But none of the sources give even the slightest hint as to an oath by the Macedonian king; all the sources focus on the oaths of loyalty by the army and/or populace. As with an oath by the people, many modern scholars assume that the taking of an oath by the Epirot kings serves as reliable evidence that the Macedonian king swore an oath. But not all modern scholars subscribe to this line of thought,[18] and given the wealth of sources we have for the reigns of Philip II and Alexander the Great we might reasonably have expected to find some references to an oath if one was sworn. Surely some disaffected notable (e.g. Philotas or Cleitus) would have made reference to Alexander violating his oath if there had been one to violate in the first place!

3.2 High officials: archons and generals

It seems a safe bet that the majority of high offices would have required an oath. But once again we are plagued with a dearth of information outside Athens. We are fortunate to have clear information regarding the oath sworn by the nine Athenian archons. According to the *Ath.Pol.* (55.5), after undergoing scrutiny those taking up the office of archon went to a special stone in the agora (the so-called *lithos*) on which the victims

18 Anson 1995, 313 n.57.

were cut up for sacrifice – the same stone on which arbitrators took their oath before making their decisions and witnesses took their oath if refusing to give evidence (see §§5.10, 5.13) – and when standing on this stone they swore

> that they will govern justly and according to the laws, and will not take presents on account of their office, and that if they should take anything they will set up a golden statue. After taking oath they go from the stone to the Acropolis and take the same oath again there, and after that they enter on their office.

This oath was allegedly the same one that had been sworn in Solon's time (Plut. *Sol.* 25). It is significant that the archons swore their oath not just on the sacred stone, but also on the Acropolis. This could be a "belt and braces" approach to dealing with the potential for oath-breaking on the part of the Athenians, by making the archons swear in two separate places of considerable religious potency. That those who break their oath are to pay a fine is further evidence of very human punishments for breaking oaths. Certainly the golden statues will be dedicated to the gods, but the penalty will deprive the oath-violator of hard cash.

We are less fortunate when it comes to oaths by other high officials. We know that Athenian generals swore an oath,[19] but we do not know the content of that oath, despite the fact that there were ten generals each year and numerous generals were prosecuted for allegedly failing in their duties. Lysias (9.15) preserves what must be one clause of the oath sworn by the generals at Athens: "that they would call up first only those who had not been on campaign". But the rest of the generals' oath remains a mystery.

Athenian generals appear to have sworn their oath on the Acropolis like the archons did. The prosecutor of the general Philocles (Dein. 3.2) argues that he

> lied before all the Athenians and the surrounding crowd, saying that he would prevent Harpalus from putting into the Piraeus, when he had been appointed by you as general in command of Munichia and the dockyards, and he dared to take bribes against you all, against your country and your wives and children; he has broken the oath which he swore between the statue of Athena and the table; and he proposed a decree against himself imposing the death penalty on him if he had accepted any of the money which Harpalus brought into the country.

The swearing of the oath "between the statue of Athena and the table" presumably refers to one of Athena's temples on the Acropolis. We do not know what occasion is being referred to, though Hansen assumes that

19 Plutarch (*Per.* 30) discusses the addition of a clause regarding the Megarian decree to what he calls the "ancestral oath" of the generals at Athens.

these passages refer to the generals' oath of office.[20] Given that the nine archons took an oath on the Acropolis it would not be surprising if the generals, who exercised functions that had previously belonged to the polemarch, had to do likewise.

3.3 The Athenian bouleutic oath

One of the most important oaths in Athens would have been that of the Council of Five Hundred. The Council (*boulè*) was one of the cornerstones of Athenian democracy, and the oath sworn by the councillors was said to have originated in 501 BC, not long after Cleisthenes' reforms (*Ath.Pol.* 22.2–3). Unlike the oath sworn by the archons, this oath is not preserved in our sources. A very poorly preserved inscription from the late fifth century has survived (*IG* i^3 105), but it is too fragmentary to be of much use. We do, however, have access to a wealth of different references to the oath, which allowed Rhodes, following Wade-Gery,[21] to reconstruct the following clauses:

1. I will give counsel in accordance with the laws (Xen. *Mem.* 1.1.8);
2. I will give the best counsel to the *polis*/to the Athenian people (Lys. 31.1; [Dem.] 59.4);
3. I will not imprison any Athenian citizen who offers three sureties taxed in the same class as himself, except any person found guilty of conspiring to betray the city or to overthrow the democracy, or any tax-farmer or his surety or collector being in default (Demosthenes 24.144);
4. I will neither exile, nor imprison, nor put to death anybody without trial ([And.] 4.3);
5. I will expose anyone who has been appointed by lot who I know is unsuitable to serve in the council (Lys. 31.2) (added 403/2);
6. I will sit in the letter section to which I am allotted (Philochorus *FGrH* 328 F 140) (added 410/09);
7. If someone coins money of silver in the *poleis* and does not use Athenian coins or weights or measures, but uses foreign coins and weights and measures, I shall impeach him according to the former decree proposed by Clearchus (*IG i*^{3} 1453 + *SEG* xxviii 2) (added ca.448);

20 Hansen 1991, 227 and n.30.

21 For a detailed discussion see Rhodes 1972, 190–9. Cf. Wade-Gery 1932–3, 117–122.

8. I am not less than thirty years old (Xen. *Mem.* 1.2.35);[22]
9. I will not allow any denunciation (*endeixis*) or summary arrest (*apagōgē*) arising out of past events, except in the case of those who fled (And. 1.91) (added 403/2);
10. I will not put to the vote anything contrary to the laws (Xen. *Mem.* 1.1.8).[23]

The fact that the *Ath.Pol.* (22.2–3) states that the original bouleutic oath instituted in the archonship of Hermocreon (502/1 BC?) was "still in use" in the fourth century would appear to clash with the new clauses that were added to the oath throughout the fifth century. But Rhodes argues that "the particular clauses concerned with the actual powers of the boule could come and go without invalidating the claim that 'the same oath' was being sworn".[24] It seems likely that the first two clauses, "I will give counsel in accordance with the laws", and "I will give the best counsel to the *polis*/to the Athenian people" were constants, and therefore must be accepted as the fundamental basis of the oath. In short, the bouleutic oath should be seen as an oath "to give [the best] counsel [to the Athenian people] in accordance with the laws". With this in mind we can see that Rhodes was right to argue that "the essence of the bouleutic oath was a declaration of allegiance to the constitution and an undertaking to work for the good of the city".[25]

Additional clauses could then be appended to this general oath to deliberate according to Athenian law. One such new clause was one which stipulated that each new councillor should swear that "If someone coins money of silver in the *poleis* and does not use Athenian coins or weights or measures, but uses foreign coins and weights and measures, I shall impeach him according to the former decree proposed by Clearchus" (*IG* i^3 1453 + *SEG* xxviii 2). We can see here the Athenians employing oaths to police their empire from at home. Later we shall see the Athenians using oaths to police their allies overseas.

The evidence we possess also indicates that those who had sworn the bouleutic oath could use their oath "to give [the best] counsel [to the Athenian people] in accordance with the laws" as a rhetorical device in much the same way that the Athenian orators used the oath the jurors had

22 Wade-Gery and Rhodes cite Demosthenes 24.150 and extrapolate this clause from the dicastic oath (see §5.4). Koch 1995–6, 280 notes the Xenophon passage, which was not cited by Rhodes or Wade-Gery.

23 For a recent re-examination of the different clauses see Koch 1995–6, 279–80.

24 Rhodes 1972, 193.

25 Rhodes 1972, 193.

sworn to their advantage. But whereas the orators would remind the jurors themselves of an oath they had sworn in order to encourage them to see things their way, the speaker of Lysias' *Against Philon* reminds the members of the council that he himself had sworn an oath "to give the best advice to the city…and to expose anyone who has been appointed by lot whom we know to be unsuitable to serve in the *boulē*", and informs them that he is going to deliver the accusation against Philon in accordance with that oath. According to Lysias (31.1):

> I did not suppose, gentlemen of the Council, that Philon would ever carry audacity to the point of consenting to appear before you in order to pass a scrutiny. But since he is audacious, not in one instance only, but in many, and I have taken oath before entering the Council-chamber that my counsel would be for the best advantage of the polis, and as the terms of that oath require us to expose any person appointed by lot whom we know to be unsuitable for service on the Council, I shall deliver the accusation against this man Philon: I am not, however, pursuing any private feud, nor am I prompted by my ability or practice in speaking before you, but I merely rely on the multitude of his offences, and feel bound to abide by the oaths that I have sworn.

Having demonstrated his trustworthiness by indicating that he is speaking against Philon in accordance with his bouleutic oath, the speaker goes on to ask his fellow-councillors to consider which oaths Philon would respect when he has already betrayed the ancestral gods with his actions. He is clearly thinking of the bouleutic oath again – Philon is undergoing his *dokimasia* for membership of the *boulē* – just as his subsequent references to giving good advice and keeping secrets allude to aspects of a councillor's duties. The speaker thus wishes to demonstrate that he personally is keeping his oath, and Philon is clearly violating his. The message the speaker has for his audience is clear – I am more trustworthy because I am keeping my oath, whereas Philon is not trustworthy because he had sworn falsely.

Xenophon uses the bouleutic oath to show that Socrates was not impious. When discussing the highly illegal trial of the Arginusae generals before the assembly, Xenophon (*Mem.* 1.1.18, cf. 4.4.2) notes that Socrates, who he says was chairman (*epistatēs*) of the *prutaneis* at the time of the Arginusae trial, was the only member of the council who voted against the illegal motion to condemn Thrasyllus and Erasinides and their colleagues to death as a single group, by a single vote. Acting in this way, against popular demand, and further incurring threats from powerful people, Socrates, Xenophon claims, felt bound to honour his bouleutic oath rather than to humour the people's unjust request. According to Xenophon:

> So, in pronouncing on opinions of his that were unknown to them it is not surprising that the jury erred: but is it not astonishing that they should have ignored matters of common knowledge? For instance, when he was on the Council and had taken the councillor's oath by which he bound himself to give counsel in accordance with the laws, it fell to his lot to preside in the Assembly when the people wanted to condemn Thrasyllus and Erasinides and their colleagues to death by a single vote. That was illegal, and he refused the motion in spite of popular rancour and the threats of many powerful persons. It meant more to him that he should keep his oath than that he should humour the people in an unjust demand and shield himself from threats. For, like most men, indeed, he believed that the gods are heedful of mankind, but with an important difference; for whereas they do not believe in the omniscience of the gods, Socrates thought that they know all things, our words and deeds and secret purposes; that they are present everywhere, and grant signs to men of all that concerns man.

For Xenophon, Socrates was a pious man so fearful of the gods that he would risk the anger of the Athenians in order to uphold his bouleutic oath. It is a shame then that in his account of the trial in the *Hellenica* Xenophon makes no mention of Socrates serving as *epistatēs* (saying only that he was one of the *prutaneis*), and nor does Plato in the *Apology*.[26] Nonetheless, the story shows that the oath could be employed as a valuable rhetorical device. The rhetorical possibilities of the heliastic oath will be discussed in some detail below (§5.4).

3.4 Minor officials

Even the most minor of officials would have sworn an oath of office, and it is remarkable that many such oaths have been preserved on stone. One such oath is that of the treasurers of the Athenian deme Scambonidae (*IG* i^3 244 B 3–15), part of the laws of this deme ca.460 BC. The text indicates that the treasurers swore "that they would protect the funds of the deme Scambonidae and submit their accounts to the auditor for scrutiny".

A deme decree from Hagnous or Myrrhinous from ca. 349–325 BC (*IG* ii^2 1183.8–13) describes the oath of the scrutineers (*euthunoi*). The beginning of their oath is lost, but what remains indicates that they swore, invoking Zeus, Apollo and Demeter:

26 However, in the *Gorgias* (473e-474a) Socrates seems to imply that he was *epistatēs*, ironically saying that he had the duty of putting a motion to the vote but "made a fool of myself with not knowing how to".

> [I will not act unjustly, not myself] nor any other man or woman[27] on my behalf with my knowledge, by any manner or means. And if anyone seems to me to be in the wrong I will condemn him at the scrutiny and punish him as the offence seems to me to deserve.

The same document indicates (lines 13–16) that the Reckoner (*logistēs*) swore "that he would reckon what he (the official being scrutinised) appears to him to have spent", while the Advocates (*sunēgoroi*) swore "that they would advocate what is just for the deme and would vote as seems to them most just". The text further indicates (lines 18–20) that the demarch will oversee the ballot for those participating in the scrutiny and will exact their oaths, and (lines 20–23) that if an official undergoing scrutiny appeals the demarch shall exact an oath from the demesmen and give out the ballot. The oath statement is unknown, but presumably it relates to their impending role as jurors.

The evidence we have suggests that oaths for even such minor functions would have been taken very seriously. A measure of this seriousness comes from a deme decree from Icarion from ca. 440–415 BC (*IG* i^3 255.10–24) which indicates that the *chorēgoi* at the deme Icaria would swear their oaths whilst placing their hand on the cult statue of Dionysus. The implication is surely that Dionysus would keep a close eye on what went on at deme theatrical performances as well as performances at the Theatre of Dionysus in Athens itself. If Dionysus was expected to make sure that the oaths of deme-level *chorēgoi* were kept, how much more would he be expected to take heed of the oaths of the highest officials?

3.5 The *exōmosia* for office(s)

We have seen many oaths for holding office. But an oath was required to get out of holding office in the first place. This procedure was known as the *exōmosia*. This would typically be an oath that one did not have the means – financial or physical – to perform the duties of office. Clearly this oath was intended to ensure that those who were selected for office-holding did not shirk their responsibilities. Theophrastus mocks this type of behaviour in his *Characters*. Fundamental to his portrayal of "Arrogance" (*huperēphania*), or contempt for anyone other than oneself is the *exōmosia*, for Theophrastus' arrogant man (*Char.* 24) "if elected to office takes the *exōmosia* to avoid serving, claiming a lack of time". Clearly this is meant to be a parody of the *exōmosia*, and "a lack of time" would

27 Taking [α]λλ̣ in line 9 as an error for ἄλλη: epsilon is written for eta in four other places in this inscription (see Teodorsson 1974, 86).

not have been a valid excuse. But the characterization suggests that it was thought possible if not likely that Athenians might try to shirk their duties by way of an oath. In a discussion of the correct ways to ensure that the right people hold office, Aristotle (*Pol.* 1297a20–1) states that those who lack the means (i.e. wealth) to hold office (effectively) are permitted to take an oath to decline office. Those who have property are not permitted to take such an oath. Aristotle claims that this device (and the others discussed in the passage) are used by (some) oligarchic regimes to make them appear more democratic than they really are. Since these are oligarchies, the offices are, of course, unpaid. Such a rule was also employed for some offices in democratic Athens. A fifth-century regulation (449–447 or 433/2 BC) concerning the *epistatai* of Eleusis (*IG* i^3 32) stipulates that those elected as *epistatai* cannot decline their office by swearing an *exōmosia*.

As is often the case with the evidence for oaths, the best evidence we have for the *exōmosia* is plainly anomalous. We have clear evidence that both Demosthenes and Aeschines swore the *exōmosia* in 346/5 in order to excuse themselves from serving on a third embassy to Philip of Macedon. We know only that Demosthenes declined to serve on oath and that "some people" initially objected (Dem. 19.122). It would not be a surprise to find that the objectors were Aeschines and his supporters. But in the case of Aeschines we have considerable detail about his *exōmosia*. Aeschines (2.94–5) states that when he was elected as an ambassador to Philip he was ill, so he sent his brother, his nephew and his physician Execestus to the council to swear that he was ill. Aeschines stresses that he sent them not to decline the office (for the law forbade this) but merely to testify that he was ill. Demosthenes (19.124) paints this episode in dark colours. He tells the jurors that when Aeschines realized that Demosthenes was not going to participate in the embassy to Philip, he also wished to remain in Athens, but to take the *exōmosia* without some reason was a very serious matter and very suspicious. Demosthenes alleges that Aeschines resolved his problem by giving the excuse that he was unwell, and sent his brother to take the *exōmosia*. He reports that Aeschines' brother (it is uncertain whether it was Aphobetus or Philochares) took the physician Execestus to the council when he swore the oath. According to Demosthenes Aeschines soon "forgot" that he was unwell and travelled to see Philip anyway. Clearly Aeschines had not broken any laws, so he could act as he did without danger from human hands. What the gods would have thought of his rapid recovery is another matter altogether.

An *exōmosia* was also required for discharge from cavalry service. The procedure was that after the *katalogeis* drew up the provisional list of

cavalrymen which was passed on to the hipparchs and phylarchs who brought it before the council, the council erased the names of those who swore that they were not physically fit to serve. Those remaining on the list were then summoned before the council, and anyone who then swore that he was physically or financially unable to serve was exempted. For each man still regarded as liable, the council would then vote on whether he was a suitable person to serve on horseback (*Ath.Pol.* 49.2). This suggests that a claim of physical unfitness, once entered, remained on the record, and anyone who had made such a claim would automatically be exempted in future years. Anyone who swore to financial incapacity would have to be examined each year. After all a man's material fortunes could recover, whereas physical fitness was less likely to improve over time, especially when one considers that cavalry service was very much a young man's game. One can relatively safely assume that an *exōmosia* would have been required to escape service as a hoplite too, but unfortunately there is no evidence in sources to support this notion. All the remaining source material we have regarding the *exōmosia* relates to a very different oath in the law courts which will be discussed below (§5.10).

4 Assemblies
(*A.H. Sommerstein*)

In Greek *poleis*, from the earliest times, important issues had been debated in assemblies (in Homer called *agorai*, "gatherings") which all the adult males of the community were entitled to attend; and in the democracies of classical times, these assemblies, such as the Athenian *ekklēsia*, came to exercise the fundamental power in the state. In general, it seems, no special oath was required of those attending such assemblies. In early times, their deliberations may not have been considered important enough for an oath to be appropriate. Homeric assemblies take no binding decisions; they serve essentially as a forum in which members of the élite can present their views, pursue their quarrels, and gain some notion of the state of public opinion on the matters discussed – which they may then follow or disregard as they please. At the beginning of the *Iliad*, opinion in the Achaean army assembly overwhelmingly favours returning the captive Chryseis to her father; Agamemnon is against it, and she is not returned (*Iliad* 1.22–33). In the second book, the army, much to the alarm of their leaders, not only enthusiastically approve Agamemnon's insincere proposal to abandon the war, but proceed forthwith to put it into action (*Iliad* 2.142–54); they are stopped, in part by force.

Already in quite early archaic times, however, there were assemblies in some *poleis* which, in the words of the Spartan "Great Rhetra" (Plut. *Lyc.* 6), had "decision and power" (*kurian … kai kratos*), even if, as at Sparta, the assembly's decisions were potentially subject to a veto by some other authority. At Athens we nowhere hear of any such right of veto, and we do hear of what *prima facie* is an attempt to bind the *ekklēsia* by oath, when Solon made the Athenians swear not to alter his laws for ten years (Hdt. 1.29). We cannot, however, be sure that this oath was imposed on all citizens. It is likely that the *ekklēsia* at this date could only consider business brought before it by a magistrate or by the council, and Solon may simply have made the magistrates and council swear not to propose, or put before the *ekklēsia* for decision, any alteration to the laws, and to administer the same oath to their successors in office.

It is not easy, after all, to exact an oath from every member of an assembly that may number several thousand, many of whom will probably

be unknown to the presiding officials and to each other. It takes two or three days even to swear in, one by one, the 600–odd members of the British House of Commons. In Aristophanes' *Lysistrata* (209–37), the heroine administers an oath to her followers *en masse* by having one of them repeat its words after her and then asking the rest "Do all of you join in swearing this oath?" to which they reply in the affirmative. But an oath taken in that way could easily, especially in a large gathering, be evaded simply by remaining silent when confirmation of the oath was demanded. Lysistrata takes the precaution of having everyone lay a hand on a sacred object (a cup of wine) while the oath is being taken; this again would not be practicable in a large assembly.[1]

At any rate, those participating in assemblies open to the whole citizen body of a *polis* were not, it seems, normally required to take an oath. In many *poleis*, including Athens, they had already on coming of age taken an oath, binding for life, which committed them to certain norms of civic as well as military behaviour (§2.3); but these were often not well suited for governing the actions of citizens in a deliberative assembly. The Athenian ephebic oath, for example, hardly acknowledged that the citizen had any deliberative functions at all; in civilian life, it bound him only to obey the laws and the constituted authorities (so long as they were "reasonable") and to resist any attempt to overthrow them.[2] Something more was needed. And it was provided, at Athens, not by requiring the citizen to pronounce or assent to an oath (i.e. a conditional curse on himself), but by the *official* pronouncement of a curse on those who made use of the *ekklēsia* to harm the city. This curse was read before every *ekklēsia* meeting, so that everyone who spoke or voted at the meeting knew that he was subject to the curse if he committed any of the offences it specified. Although, therefore, the curse was not technically an oath, it is entirely appropriate to include it in our survey.

1 It would, admittedly, be possible to require everyone confirming the oath to (for example) raise a hand, and this may have been done on exceptional occasions, such as those discussed in ch.7, when it was deemed especially vital to make every citizen feel that he had personally engaged himself in a solemn undertaking; but it would only be effective if anyone failing to make the gesture could easily be identified by the officials observing the ceremony. At the taking of the "oath of Demophantus" in 410/09 (see ch.7), this was achieved by requiring the oath to be taken, not by the whole people at once, but deme by deme; this would be far too time-consuming for an ordinary assembly meeting.

2 Though after the establishment of a clear distinction between laws and decrees in 403/2, these clauses could reasonably be read as requiring the citizen to oppose any attempt to pass an unlawful decree.

We do not possess a complete text of this curse, but we have a good idea of its contents. Various clauses are cited or alluded to by the orators;[3] and in Aristophanes' *Thesmophoriazusae*, when the women of Athens hold an *ekklēsia* of their own to discuss how to punish Euripides for allegedly slandering women, one of them pronounces a curse which, though it contains many elements appropriate only to a gathering of women (or rather to the comic stereotype of women), also contains clear echoes of the real *ekklēsia* curse as known from other sources, and may be used with due caution to reconstruct the actual curse[4].

The *ekklēsia* curse, then, condemned anyone who

- plotted against the people (Ar. *Thesm.* 335)
- made diplomatic overtures to the Persians to the detriment of the city (Isoc. 4.157; Ar. *Thesm.* 336–7)
- attempted
  - in the fifth century, "to become tyrant or to join in restoring the tyrant" (Ar. *Thesm.* 338–9)
  - in the fourth century, to subvert the democracy (Dem. 20.107)
- deceived the people, the council or the courts (Dem. 19.70, 23.97; Ar. *Thesm.* 343), "saying one thing and thinking another" (Dein. 1.47)
- betrayed the city (Dem. 23.97, Lyc. *Leocr.* 31; Ar. *Thesm.* 346)
- took bribes to the detriment of the city (Dein. 1.47, 2.16; Ar. *Thesm.* 346)
- gave advice contrary to the laws (Dein. 1.47; Ar. *Thesm.* 361–2)

It took the form of a prayer, read by the herald before each meeting of the *ekklēsia* (and also of the council: Dem. 19.70), that these persons should be utterly destroyed, themselves and their descendants and their houses (Dem. 19.71), but that to the rest of the community the gods should grant many blessings (Ar. *Thesm.* 350–1).

The basic form of the curse doubtless dates from soon after the establishment of democracy in 508/7, though some changes were certainly made thereafter. In particular, the curse against those who "made diplomatic overtures to the Persians" evidently dates from the period of the Persian Wars; according to Plutarch (*Arist.* 10.6) it was introduced on

3 Isoc. 4.157; Dem. 18.130, 19.70, 20.107, 23.97; Lyc. 1.31; Dein. 1.47, 2.16.

4 See Rhodes 1972, 36–37. His reconstruction of the curse contains the first six of the seven clauses below, and adds a clause against those who debase the coinage (inferred from Ar. *Thesm.* 348; but this would have little relevance to the business of the *ekklēsia*, and finds no support in later references to the curse).

the proposal of Aristides during the winter of 480/79, when the Persian general Mardonius was attempting to detach Athens from the Greek alliance by fair promises.[5] It was still in use a century later when Isocrates wrote his *Panegyricus*, although by then there had been many negotiations, and in the 390s a *de facto* alliance, between Persia and Athens. Probably what had originally been a blanket ban on any diplomatic approach was later modified by the addition of the words "to the detriment of the city" which seem to be reflected in Aristophanes. Another modification likely to have been made in the late fifth or early fourth century concerns the clause relating to tyranny. In its original form, referring as it did to "*the* tyrant", this clause had really been obsolete since the death of Hippias in the 480s; but as late as 411 (Ar. *Lys.* 630–3, *Thesm.* 1143–4) "tyranny" remained the great Athenian political bogy, the antithesis of democracy, and it was only after the regime of the Four Hundred that "subversion of democracy" took over this role.[6] Our fourth-century sources for the curse do not refer explicitly to "subversion of democracy", but Demosthenes' words in the following passage (20.107) strongly suggest that by his time this part of the curse was not limited to those who aimed to establish an autocracy:

> When someone [in Sparta] is admitted to what they call the *gerousia*, having shown himself an appropriate person, he is lord and master of the common people. There the great prize of virtue is to be in command of the state together with one's peers, whereas with us the people are in command of the state, and there are *curses* and laws and safeguards to ensure that *no one else gets command of it*, but there are crowns, immunities from taxation, public maintenance, and the like, for a man of merit to win.

Demosthenes has chosen to contrast Athens not with a monarchy like Persia or Macedon but with Sparta, which he describes just afterwards (20.108) as a state "run by the few". The *ekklēsia* curse must surely therefore by his time have been so formulated as to cover attempts to introduce an oligarchy.

In the actual transaction of *ekklēsia* business oaths did not in general figure significantly, except in the procedure known as *hupōmosia*. Votes in the *ekklēsia* were normally taken by show of hands, and the presiding officers (the *prutaneis* until about 380, thereafter the *proedroi*) estimated which side had the majority and announced their decision to the meeting. Usually the result would be obvious, but if it was close, it might be

5 Plutarch wrongly says that the curse was pronounced by "the priests".

6 See Ostwald 1955, esp. 110–14. Shear 2007 shows how traditional anti-tyrannical rhetoric and imagery were adapted in 410 to promote democracy as against all other political systems.

disputed whether the vote had been rightly assessed. Accordingly, any citizen might then assert on oath that he believed the result had been wrongly declared. If such a challenge was made, the vote was taken again.[7]

The most famous – and tragic – occasion when this procedure was used was at the "trial" in the *ekklēsia* of the eight commanders who had won the naval battle of Arginusae in 406, for culpably failing to rescue the crews of ships that had been sunk by the enemy (Xen. *Hell.* 1.7). There had been a meeting of the *ekklēsia* at which Theramenes and others had made accusations against the generals and they had defended themselves, but no vote was taken because it was getting dark and "they would not have been able to see the hands". Instead the vote was postponed to a later meeting, ahead of which the council resolved, on the motion of Callixenus, that since both accusers and accused had already been heard, a vote should be taken forthwith by ballot (1.7.9) upon all the commanders collectively, and if convicted they should be handed over to the Eleven for execution. This motion was challenged by Euryptolemus as being against the law, since each of the accused was entitled to an individual trial, and when this failed he moved a counter-proposal that each of the commanders should be tried separately "under the decree of Cannonus" (which would mean that they would stand trial in chains, and if convicted they would be executed by being thrown into a ravine and their property confiscated). A vote was then taken (by the normal method, show of hands), the meeting being asked to choose between Euryptolemus' proposal and that of the council. The *prutaneis* (a number of whom had thought the council's proposal illegal and had not wanted to put it to the vote at all)[8] declared that Euryptolemus' proposal had been carried, but one Menecles put in a *hupōmosia*, the vote was retaken, and this time the declaration was in favour of the council's proposal. The meeting then

7 It is not clear what happened if the second vote was again close and the outcome again disputable. Probably there was a legal limit of one or at most two re-votes by show of hands, after which either a ballot was taken (at another meeting, if necessary) or the presiding officers' decision was taken as final (if their judgement was thought to have been biased, they could be called to account for it, as for any other malpractice, at the end of their term of office). There are comparable provisions in the model code of Plato's *Laws* (756b) and in the practice of the citizen assemblies (*Landsgemeinden*) in certain Swiss cantons at the present day. See Hansen 1983, 117 and 213–15.

8 Though in an atmosphere of intimidation, whipped up by Callixenus and others, only one of them, Socrates, persisted in his opposition. Euryptolemus had been forced to withdraw his notice of intent to prosecute Callixenus for moving an illegal decree, and there had been threats that both he and the recalcitrant *prutaneis* would be included in any verdict against the commanders.

voted (by ballot, in accordance with Callixenus' proposal) on the guilt of the commanders, all eight at once; they were convicted, and the six who were present (two had prudently stayed away from Athens) were executed shortly afterwards.

In the late 390s and early 380s a politician named Neocleides seems to have made quite a practice of trying to reverse *ekklēsia* votes in this way. He had poor eyesight, and by 388 it had deteriorated so much that he could be spoken of as blind (Ar. *Wealth* 665–6), though he evidently was not totally so. In Aristophanes' *Wealth*, when the hero takes the god of Wealth to a sanctuary of Asclepius to be healed of his blindness, he finds Neocleides among the other pilgrims there. Asclepius, before healing Wealth, applies a thick and painful plaster to Neocleides' eyes, preventing him from seeing anything at all, and explains that his objective was to "stop you disrupting *ekklēsia* meetings with *hupōmosiai*"[9] – since, if Neocleides became totally blind, he could not possibly *swear* that a show of hands had been wrongly assessed.

There was another kind of sworn objection to resolutions of the *ekklēsia* which was also called a *hupōmosia*. From at least as early as 415, it had been possible to challenge the validity of an *ekklēsia* resolution by claiming that it was contrary to a valid law. Such a charge (a *graphē paranomōn*) suspended the operation of the decree until a court could pronounce on its validity. As we have noted, Euryptolemus thus challenged the proposal for a single vote on the guilt of the eight Arginusae commanders; but no source calls this challenge a *hupōmosia*. Before long, however, *graphai paranomōn* became extremely common, and it was thought necessary to put a curb on this all-too-effective ploy for obstructing public business. And in the time of Demosthenes, we find that a person challenging the legality of a decree had to back his challenge by oath, and the challenge was called a *hupōmosia*.

There are very many references to *graphai paranomōn* in the fourth century, but only once is there specific mention of a *hupōmosia* in the assembly. In 340, Aristonicus proposed the conferment of a golden crown on Demosthenes, Diondas put in a *hupōmosia*, and in due course the case came to trial, when Diondas was overwhelmingly defeated.[10]

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9 *Wealth* 724–5. The manuscripts read *epomnumenon*, but the scholia cite a passage in which *hupōmosia* is mentioned (though it is, in fact, the wrong kind of *hupōmosia* – it will be discussed in §5.6), and *epomnumenon* would make no sense.

10 Demosthenes 18.83, 120, 222–3; [Plut.] *Lives of the Ten Orators* 848d (only the last of these passages refers explicitly to the *hupōmosia*). The defeat did not deter Diondas from a long series of further court actions against Demosthenes and his supporters (all of which failed), including at least one more *graphē paranomōn* (Dem. 18.249–50; [Plut.] *Lives of the Ten Orators* 848f).

It appears that a *hupōmosia* challenge, of either type, could be made either before or after the *ekklēsia* had voted. Euryptolemus' challenge to the Arginusae trial decree was made before the vote; had the challenge not been withdrawn, the decree could not have been voted on until its legality had been tested in court. On the other hand, in 355, when Euctemon and Diodorus challenged Androtion's decree awarding a crown to the outgoing council, it was after the question had been put, the vote taken and the decree passed (Dem. 22.5). This was probably the normal procedure. Once the sworn challenge had been made, the challenger was legally bound to proceed with his prosecution, and was subject to penalties if he abandoned it or if he failed to secure one-fifth of the votes at a trial; and it would generally be pointless to run these risks when it was not yet known whether the decree would even be passed or not. Euryptolemus was in a different position: for his friends, the naval commanders, it was a matter of life and death, and in the lynch-mob atmosphere of that meeting, a challenge made after the vote would be in grave danger of being made too late. At any rate, once a decree had been voted on, it had to be challenged immediately or not at all, because the passage of the decree created a duty on those concerned to implement it as soon as possible. Sometimes, however, for various reasons, the *trial* of a *graphē paranomōn* was delayed for a year or more, during which time the decree remained in a state of suspended animation and could not be put into effect; if then the decree was found to be illegal, it was annulled, but its proposer was not liable to any penalty as he would have been if the trial had been held earlier.[11]

Yet a third variety of *hupōmosia*, though it was not (or not necessarily) pronounced in the *ekklēsia*, is so closely related to that just discussed that it will be appropriate to include it in this section. Our one reference to it comes from 340 BC, when Demosthenes proposed a law (*nomos*) reforming the system of naval finance and shifting much of the cost of equipping warships from the moderately wealthy[12] to the very rich. He was prosecuted, and acquitted. The prosecution cannot have been a *graphē paranomōn*, since that procedure only applied to decrees (*psēphismata*), not to laws; it must have been for "proposing an inexpedient law" (*nomon mē*

11 At least this was so in the 350s (Dem. 20.144, 23.104). In 330, however, both Aeschines (3.210) and Demosthenes (18.15) assume that if the six-year-old decree honouring Demosthenes is annulled, its proposer, Ctesiphon, will suffer a penalty (to be assessed by the jury).

12 Misleadingly called "the poor" and "those without resources" by Demosthenes (18.102, 104, 107, 108).

epitēdeion theinai). Demosthenes says, ten years later, of his struggle to secure the enactment of this law:

> How much money do you suppose the leaders of the syndicates (*summoriai*),[13] or the seconds and thirds, were offering me if I was willing, preferably not to put this law forward at all, or, if I did, to drop it and let it lie under *hupōmosia*?[14] Such a sum, Athenians, that I would hesitate to mention it to you. (Dem. 18.103)

Nomoi were enacted not by the *ekklēsia* but by a panel of legislators (*nomothetai*) chosen by lot from among those who had sworn the dicastic oath for the current year (§5.15). Panels of *nomothetai* were established *ad hoc* to decide on one or more specific, previously published proposals (Dem. 20.94; 24.18, 25), so in principle it might be possible for a *hupōmosia* to be entered against a proposed law (i) while the *ekklēsia* was debating a motion to appoint *nomothetai* to consider the proposal, (ii) when it had just passed such a motion, (iii) when the *nomothetai* themselves were about to vote on the new law, or (iv) when they had just approved it. Certainly in one of the two *graphai nomon mē epitēdeion theinai* from which we have surviving speeches (Dem. 20), and probably also in the other (Dem. 24), option (iv) was taken, since it is stated or implied that the laws under attack were passed by the *nomothetai*.[15] We do not know for sure how many, or which, of the other options listed were legally open to an objector; most likely they all were, but (iv) was the one normally used, since, as already noted, it would usually be wise to delay any challenge as long as was permissible.

Popular assemblies were often, among their other functions, responsible for the election of magistrates. We do not generally hear of

13 The *summoriai* were groups into which those citizens rich enough to be assessed for naval contributions were divided, each group being responsible for equipping a specified number of ships. Their "leaders", "seconds" and "thirds" were evidently the richest men in each group.

14 While a *hupōmosia* bound its maker to bring a prosecution, there was apparently no provision to ensure that this was done expeditiously; Aeschines' *graphē paranomōn* against Ctesiphon, for proposing in 336 a decree to award a crown to Demosthenes, was not tried until 330. Demosthenes could not risk his opponents letting their case against his trierarchic law go to sleep in this way, since an efficient and properly equipped fleet was urgently needed for the impending war against Philip of Macedon; accordingly he or an associate moved and passed a decree (Dem. 18.105) to force a speedy trial.

15 In Dem. 20.94 it is claimed that Leptines flouted the rules requiring advance publication of proposed laws; had he followed these rules, says Demosthenes, "you would never, I think, have been persuaded to enact the law". Dem. 24.29–31 shows that Timocrates presented his law to the *nomothetai*, and speaks (§30) of his "proposing and enacting (*theinai*) it" in an illegal manner.

special oaths taken by the voters in these elections,[16] but an instance is found in connection with an unusually structured election at Athens (*Ath.Pol.* 42.2).

In 334 BC the system of military training for young Athenians coming of age was radically overhauled and expanded into a scheme of virtually full-time civic apprenticeship lasting two years (the *ephēbeia*) which came to be a central feature of Athenian society (as it was in many other *poleis*). Each annual cohort of ephebes was supervised by a *kosmētēs* and ten *sōphronistai*, one from each tribe. Their election was a three-stage process. The first stage was in the hands of a unique electorate – the fathers[17] of the ephebes in that cohort, assembling in their ten tribal groups. "Having taken an oath", we are told, "they choose three members of their tribe above the age of forty whom they consider best and most fit to have charge of the ephebes"; the actual terms of their oath are not given, but the "person specification" just quoted could well be a paraphrase of them. From each of the ten tribal short lists the full *ekklēsia* then chose a *sōphronistēs* for the tribe, and finally they elected a *kosmētēs* for the whole corps "from the other Athenians".[18] The unusual requirement of an oath before voting is doubtless to be linked to the small size of the electoral body. Inscriptional evidence shows that in the early years of the reformed *ephēbeia* there were normally 40–60 ephebes per tribe per year;[19] this was therefore the maximum number of voters at the shortlisting meeting – only two or three per cent of the men of the tribe. Moreover, the identity of these voters was known long in advance, which made it impossible to take the elaborate precautions against corruption that we find operating, for example, in the contemporary organization of the lawcourts (*Ath.Pol.* 63–66). Hence this stage of the election was perceived as needing the safeguard of an oath, and the fathers were only allowed to nominate *candidates* for the final election, which itself was left to be made by the whole Athenian people. Presumably the reasons for involving them in the process at all were (1) that in a manner without precedent in Athens, the ephebic officers were going to be virtually *in loco parentis* to their charges for two vital years of their adolescence, and (2) that it was felt that any personal qualities making a candidate unsuitable for the post would more

16 For the oaths of magistrates themselves see §§3.2 and 3.4.

17 Presumably the place of a deceased father would be taken by one of those who had been his son's guardians.

18 It is not clear whether "other" is meant to exclude all the thirty men on the tribal short lists, or only the ten who had just been elected as *sōphronistai*.

19 See Reinmuth 1971; Hansen 2006, 33–38, esp. 34.

probably be known to members of his own tribe than to the community at large.

5 The judicial sphere
(*A.H. Sommerstein*)

In Greek communities, as in many others ancient and modern, the area of life in which oath-taking was most ubiquitous was that concerned with the adjudication of disputes. Oaths, whether imposed or volunteered, were used to guarantee the truthfulness and honesty of the disputants themselves, of their witnesses, and of those who judged between them.

5.1 Homer and Hesiod

There are two notable scenes of adjudication in the Homeric *Iliad*. One of them, being part of the action of the poem itself, is narrated *in extenso*, and in it the oath – or rather a *refusal* to take an oath – is by itself sufficient to decide the dispute. It occurs during the funeral games for Patroclus (*Iliad* 23.418–47 and 514–613). At one stage in the chariot-race, Menelaus is running second and Antilochus third. Antilochus tries to overtake at a point where the track narrows, and Menelaus warns him to hold back and make his push later when there will be less risk of collision (418–28); Antilochus pretends not to have heard and presses him even harder until Menelaus is forced to slacken off as otherwise a crash will be inevitable, and Antilochus gets past (429–37). Menelaus is furious, and warns Antilochus that he "won't carry off the prize without an oath" (441).

All this, though known to the poet's audience thanks to his narratorial omniscience, has happened too far down the track to be seen by any of the spectators. Menelaus does all he can, but Antilochus just manages to keep second place at the finish, "having beaten Menelaus by guile, not by speed" (515).

Achilles, as president of the games, initially awards the second prize (a mare) neither to Antilochus nor to Menelaus but to Eumelus, who has had an accident and finished last (536–8). Antilochus objects – significantly adding (with a glance at Menelaus?) that anyone who wants the mare will have to fight him for it (553–4) – and Achilles agrees to give Eumelus a special extra prize instead (558–62). When this has been presented, Menelaus rises to make his own claim to the mare; the herald,

presumably at Menelaus' request, gives him the speaker's staff and calls for silence (568–9), an indication that the gathering is now to be considered a formal assembly. He accuses Antilochus of cheating so as to get the better of him with an inferior team of horses, and asks the leaders of the Achaeans to "give justice" (*dikassate*) fairly between them (570–8). Immediately afterwards, however, he says he will "give justice" himself (579) – that is, as at once becomes evident, make a proposal (*dikē*) for dealing with the dispute – adding that he does not expect anyone to object (*epiplēssein*) to his proposal because it will be "straight" (*itheia*). Menelaus' *dikē* is as follows:

> "Come now, divinely-reared Antilochus, as is normal (*themis*), take your stand here in front of your horses and chariot, holding in your hands the slender whip with which you were driving just now, and laying your hand on your horses, swear by him who carries and shakes the earth [Poseidon] that you did not wilfully impede my chariot by guile" (581–5).

Antilochus, that is, is being challenged to assert on oath – with the god of horses as his witness, and his horses themselves as an *Eideshort* – that he is not guilty of unfair driving; as we have seen, Menelaus had intended to make such a challenge almost from the moment of the incident. And his move is immediately successful. Antilochus, fresh from declaring that he would defend his right to the prize by force against all comers, apologizes for his youthful exuberance and light-headedness (589–90), and agrees to give Menelaus "the mare I won" and anything else he asks for, rather than become an enemy to him and a sinner before the gods (591–5) – that last phrase, of course, constituting an indirect admission that he did cheat. Menelaus, in turn, is so moved by Antilochus' behaviour that he accepts his plea and moreover gives him back the mare – "though," he adds, "she is mine" (610). Thus peace is restored and everyone's honour is satisfied.

Evidently this scene is based on certain background assumptions, accepted by poet and audience, about the kind of way in which the adjudication of a dispute might be conducted. The complainant sets out his complaint in a speech and asks the judges to propose a *dikē*. He may – perhaps he usually will – himself suggest a *dikē* that would be acceptable to him. This may take the form of an oath (in specified terms, perhaps sworn by a specified god and/or with specified additional sanctifying features) which his opponent is to swear. If the defendant accepts this *dikē* as fair, then the dispute is settled in accordance with it. If the *dikē* is an oath, the defendant will then either swear it as prescribed (and thereby win the case) or decline to do so (and thereby lose). He has, however, a third option: he can object (*epiplēssein*) to the proposed *dikē* and argue that it is "crooked" (*skolia*, cf. 16.387). In this case he will be wise to propose an alternative *dikē* that he does consider fair; if (as is likely) the complainant

in turn objects to this, it will then be for the judges either to choose between the two *dikai* or to propose a third.

There are some indications that when a decision was thus left to the judges, they themselves would normally be on oath. There is a simile in *Iliad* 16.384–93 where the noise made by the fleeing Trojans' horses is compared to that of a violent rainstorm sent by Zeus "when he is angry and aggrieved with men who by force, in the place of assembly, judge crooked *themistes* and drive out *dikē*, taking no heed of the vengeance of the gods". If this had been said in the *Odyssey*, or by Solon or Aeschylus, we would simply take it as referring to the role of the gods, and especially Zeus, as patrons of justice and punishers of injustice among mortals; but such an idea would be completely isolated in the *Iliad*,[1] where the gods act as individuals in pursuit of their own interests, desires and likings. In the *Iliad* there is only one kind of wrongdoing that the gods can be relied on to punish, namely perjury (cf. S&T ch. 12); our simile is thus *prima facie* evidence that those who acted as judges, before they pronounced a *dikē*, would normally swear that it would be "straight".

In the other judgement scene in the *Iliad*, that depicted on the shield of Achilles (18.497–508), no direct mention is made of oaths.[2] We are in the assembly-place of a city. Two men are in dispute about the payment of compensation for a homicide; the judges are the elders of the city, the proceedings are controlled by heralds, and the public are shouting in support of one side or the other. One by one the elders come forward, staff in hand, and each in turn proposes a *dikē*; and in the middle there lie two talents of gold[3] to be given "to the one among them who speaks his *dikē* most straightly".

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1 Janko 1992, 365 cites four other passages as testimony to "an underlying conviction that [the gods] are on the side of right and justice", but they are unconvincing. In 13.4–7 there is no hint that Zeus takes greater pleasure in the Abioi, "most righteous of men", than in, say, the "haughty" Hippemolgoi on whom he also turns his gaze; in 13.620–39 and 22.358 the statements made about the attitude of the gods come not from the poet but from Menelaus and Hector respectively (see on the former de Jong 2004, 151); and in 13.660–72 nothing is said about the gods at all.

2 Unless Thür 2007, 188–9 is right to suggest that in 18.501 ("they were both eager to get a final decision *epi istori*") the word *istōr* (literally "knower") denotes, as in the Athenian oath of citizenship (see §2.3) with its seventeen *istores theoi* (RO 88.16–20; Pollux 8.106; cf. Stobaeus 4.1.48), a divine witness to an oath.

3 Whatever this means, it cannot mean two talents' weight (about 50 kg) of gold; this is proved by *Iliad* 23.269 and 614, where this quantity of gold is offered as the *fourth* prize in the chariot race and Meriones can apparently pick it up and take it away without assistance. Probably the term denotes a quantity of gold equal in value to two talents' weight of some other metal, perhaps bronze (as apparently

Modern scholars are not in agreement over exactly what is at issue in the trial. Some hold that one man (the killer) is offering compensation and the other (a relative of the dead man) is refusing to accept it, presumably insisting on his traditional right of blood-vengeance (though in practice, if the judges decide against the killer, he will doubtless flee the country).[4] Others hold (with the ancient commentators) that the issue is not whether the killer should be *allowed* to offer compensation, but whether he *has in fact paid* it.[5] Michael Gagarin[6] has pointed out that the language of lines 499–500 may well indicate that the scenario envisaged is more complex. Judging by regular Homeric usage, the passage seems to mean:

> The one was declaring[7] that he had paid in full, and proclaiming this to the community, while the other was refusing to accept anything.

Gagarin offers two scenarios that could be spoken of in this way. In the first, the majority of the dead man's relatives have agreed to accept compensation, and the amount demanded has been paid to them, but one kinsman has rejected the deal; what is to happen now?[8] In the second, the killer has offered (and perhaps deposited with a third party) what he asserts is the full payment prescribed by custom,[9] but the relatives are holding out for more, and "as a bargaining position" are initially saying that they will not accept any sum however high.

If either of these interpretations is correct, there will be little scope for a decision by oath,[10] since the issue between the two sides is not that of

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in fourth-century Sicily, where the talent as a unit of currency was equal to three Attic drachmae: Arist. fr. 589 Rose).

4 So e.g, M.W. Edwards 1991, 214–16, and Westbrook 1992.

5 So the scholia (Σ^{A} 18.497, and Σ^{bT} 18.497–8 and 499–500); also e.g. Wolff 1946, 37 = Wolff 1961, 10–11, and Thür 1996, 66.

6 Gagarin 1981, 13–16; 1986, 26–33. The first of the scenarios described above is proposed in the former book, the second in the latter (at pp.32–33).

7 Or "was ready to swear" (Thür 2007, 189–90).

8 Athenian homicide law made specific provision for an analogous situation: pardon (*aidesis*) might be extended to an unintentional killer by the kinsmen of the deceased, but only if they were all in agreement (*IG* i^{3} 104.13–16; [Dem.] 43.57).

9 There is no direct evidence, from anywhere in the Greek world, for a fixed scale of blood-prices; but Carawan 1998, 55 draws attention to the phrase *aisima panta* "the full appropriate amount" in *Odyssey* 8.348, which may imply a fixed scale of fines/ransoms for adultery.

10 Carawan 1998, 65–67 suggests that the elders might have proposed oaths regarding the intentionality or otherwise of the killing; but there is no evidence in Homer that intentionality was of any significance in determining a killer's fate. Patroclus, when a child, killed another boy unintentionally (*Iliad* 23.85–88); his

whose contention is in accordance with *truth*, but of whose contention is in accordance with *justice*. It may nevertheless be worth while to examine the scene under the interpretation favoured by the ancient commentators: even if this is not the scene which the poet has in mind, it is certainly one which *could* have taken place in his world.

The killer and the victim's family, then, let us suppose, have agreed on a blood-price, but the latter are now complaining that none of it has been paid, while the killer, contrariwise, claims that he has paid in full. We are not told whether either (or both) of them has proposed a *dikē* by oath, or has volunteered to swear to the truth of his own assertions; at any rate, it has proved impossible to arrive at a *dikē* by agreement as Menelaus and Antilochus had done. The matter is now in the hands of the elders. Their remote successors, the jurors of classical Athens, would simply have chosen by vote between the proposals of the two sides. Here, on the other hand, each elder makes his own proposal – briefly, it seems, since they are described as "rushing" forward in succession (506) – and each proposal is different.[11] Most probably[12] the various proposals would all involve the swearing of an oath by one party or the other (less likely both),[13] and the questions on which they might differ would be, firstly *which* party would be required to swear, secondly the exact *terms* of the oath that would be put to him, and thirdly the *circumstances* of the oath (the god or gods by whom it was to be sworn, and any special sanctifying features). All these, it will be noted, are specified in Menelaus' challenge to Antilochus. If the party required to swear was willing to do so, he would have won his case; if not, he would have lost.[14] Much might depend on which party was put

father still had to send him out of the country (the victim's family, presumably, refusing to accept compensation).

11 Presumably it would be possible for an elder simply to assent to a proposal already made by another, though in that case he probably would not be eligible for the prize.

12 Cf. Thür 1996, 66–69. Thür 2007, 191–3 (with further references) shows that this form of adjudication was widespread in the Eastern Mediterranean / Near Eastern world, citing parallels from Mycenaean Pylos, the Hittite empire, and Mesopotamia.

13 If both parties were asked to swear, it might not resolve the case, since there would be a deadlock if both were willing to swear or if neither was. Compare §5.2 below on the meaning of *horkiōteros* ("oathier") at Gortyn.

14 Gagarin 1997, 133 says that such a procedure would "essentially [mean] awarding the decision to the litigant who was allowed to swear", since "both litigants are prepared to swear … [for otherwise] they would not have reached this stage in their dispute". But that is a *non sequitur*. No doubt each litigant is "prepared to swear" – so long as *he* can choose the terms and conditions of the oath; but what

to the test, particularly if (as is so often the case) the truth actually lay somewhere between their respective contentions.

Presumably the "straightest" proposal, for which the prize was awarded, would be the one put into effect. But how would it be decided which proposal was "straightest"? The most plausible suggestion is that of Wolff,[15] that the prize was awarded (by the heralds?) to the proposal that won the loudest acclaim from the assembled people.

It is not said whether the elders themselves were on oath, but in view of *Iliad* 16.387 this can safely be assumed.

5.2 Archaic practices and their survival; Gortyn

Traces of similar, or partly similar, procedures can be found in various parts of the Greek world. For Athens, an ancient rhetorical lexicon[16] defines *doxastai* as

> judges who decide which of two disputants is swearing truthfully. For Solon requires the defendant, if he has neither a contract nor witnesses, to swear, and the prosecutor likewise.

In Solon's time, then (early sixth century), if it appeared to the judge(s) hearing a case – probably, at that time, a magistrate or board of magistrates – that there was no evidence on which it could be decided other than the word of the parties, they could require both parties to take an oath and then "decide which … [was] swearing truthfully". Since it does not seem to be envisaged that either party might refuse to swear, we should assume that each litigant could formulate his own oath (as they did in classical times in the *antōmosia* – see §5.5); each would naturally endeavour to find a wording that maintained formal truthfulness, and it was then for the *doxastai*, taking note in particular of any loopholes or omissions in the two sworn statements, to "form an opinion" (*doxazein*) as to what the actual facts were and to give judgement accordingly.

In several places, even in classical times, we find provisions whereby, as in the Menelaus-Antilochus scene, willingness to take a prescribed oath

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he is actually going to be "allowed", or rather challenged, to do is take an oath whose terms and conditions are *prescribed* to him.

15 Wolff 1946, 39–42 = 1961, 13–18. Carawan 1998, 57 suggests that the "straightest" *dikē* was the one that both litigants were prepared to accept; one may feel, with Gagarin 1986, 30–31 (also Gagarin 2008, 15–19), that in practice the litigants would find it hard to reject a proposal which clearly had strong support among the public.

16 *AB* i 242.19–22 = Solon, *Laws* fr. 42 (Ruschenbusch 2010).

automatically decides the issue of a case. At Halicarnassus, a law passed between 465 and 450 (ML 32) provided that after eighteen months had elapsed, those who held land or houses in "the year of Apollonides" (which was either about to start, or had started recently) were to be regarded as the legal owners, and if their title was disputed they were only required to substantiate their claim by an oath (to be administered by the jurors in the presence of the adversary). At Thasos, about the same time, we find that the default assumption is that anyone charged with an offence can gain an acquittal by swearing his innocence (presumably in terms prescribed by the law or by the appropriate magistrate), since a decree[17] specifically provides that those accused of adulterating wine will *not* be allowed to clear themselves in this way. At Miletus in 380/79 (*LSAM* 45.14–17) it was prescribed that anyone failing to offer certain gifts to the priestess of Artemis, or to make certain sacrifices, was to owe a fine "unless he takes an oath of denial in the *boulē*". At Delphi, at an uncertain date between 424 and 350 (*CID* i 9 D II 17–25), a person holding the office of *tagos* of the Labyad phratry, on whom a fine was imposed for misconduct and who disputed his liability, "shall be freed [from the fine] if he swears the customary oath of denial". At Cyme, as late as Aristotle's time (*Pol.* 1269a1–3), the law provided that in a case of homicide the accused was automatically judged guilty if the prosecutor produced "a certain number of his [the prosecutor's] kinsmen as witnesses" (presumably on oath, though Aristotle does not actually say so).

Our fullest evidence, by far, on this oath-based system of justice comes from fifth-century legal texts in the Cretan city of Gortyn; many of our illustrations of it will be taken from a single document, the so-called Great Law Code (*IC* iv 72) dating from about the middle of the century (all Gortyn citations hereinafter are from this inscription, unless otherwise stated). The general principle, oddly, appears among a miscellaneous group of addenda and amendments at the end of the inscription (xi 26–31):

> When it is prescribed that the judge shall decide a matter according to witnesses or by oath of denial, he shall decide as prescribed, but otherwise he shall judge on oath (*omnunta* "swearing") according to the pleas.

There are thus three ways of deciding a case – by witnesses, by the oath of a party, or by the judge himself making a sworn decision; in principle, every case must be decided in one of these ways, the first or second being

17 *Thasos* i 7.8–10.

used if specifically prescribed by a law, the third otherwise. In the following provision, the alternatives are spelled out (i 17–23):

> If two parties are disputing about a slave whom each of them claims to own, then if a witness testifies [the judge] shall decide according to the witness, but if [witnesses] testify for both sides or for neither, the judge shall judge on oath.

The recurrent expression "the judge shall judge on oath" indicates that the judge had to take an oath in connection with each such decision he gave,[18] and not (like a modern judge, or an Athenian juror) once for all when he entered office (Thür 2010, 148); but what exactly did he swear? Robert Parker[19] has argued that the answer emerges from a passage relating to a divorced wife improperly removing goods from her husband's house (iii 12–16):

> If an outsider helps her to remove goods, he shall pay ten staters plus double the value of what the judge swears he helped to remove.

Parker sees this as evidence that the judge did not (as we might naturally expect) first swear to render a just decision, and then say (for example) that the defendant helped remove goods worth three staters; rather, he swears that the defendant helped remove goods worth three staters, and "if he has been misled by false testimony, the religious guilt is none the less his". This cannot be right. In a world in which everyone believed in the power of the gods no sane man would accept the office of judge on such terms, knowing that anyone (perhaps someone who secretly cherished an unfounded grudge against him) could bring a case before him, tell some convincing lies, and thereby bring down divine retribution not on himself but on the innocent judge. Either "swears" in the passage quoted is shorthand for "says in a judgement rendered on oath", or else what the judge swore was, not that *p* was the case, but only that he believed *p* to be the case.

The expression "oath of denial" (*apōmoton*) in the general rule seems to be a term of art covering, not only an accused person's oath that he is innocent, but any oath capable of deciding a case automatically. Sometimes it is not the accused but the accuser who swears (ii 11–16):

> If [a man] violates a female household slave by force, he shall pay two staters, but if she is not a virgin, then one obol if [the offence is committed] by day, two obols if by night; and the female slave shall be oathier (*horkiōtera*).

It is tempting to suppose that the last clause means that if both accuser and accused in a rape case swear to the truth of their respective claims, the

18 As later recommended by Plato in the *Laws* (948e).

19 Parker 2004, 72–73.

accuser shall be believed.[20] It is more likely, however,[21] that here, as in Homer, the oath is taken by one side only, and that *horkiōtera* is to be understood, in accordance with the earlier significance of the suffix *–teros*, as "that one of the two who is to be sworn".[22] In this case, then, the judge is to direct the woman making a complaint of rape to swear an oath,[23] presumably in terms either prescribed by tradition or formulated by the judge, and the accused man will automatically be found guilty if, and only if, she does so swear.

Similarly, it is specified that when a man charges another with responsibility for the death of, or an injury to, an animal of his, he (and his witnesses) are to be "oathier" in respect of his assertion that he showed the animal to the accused, or summoned him to see it, within the statutory period of five days (*IC* iv 41 ii 6–16); and that a judge or *mnamōn* shall be "oathier" if he is accused of not having adjudicated a boundary dispute within the statutory period of fifteen days (*IC* iv 42 B 3–9).[24]

An oath of denial in the literal sense is found in *IC* iv 47.15–26, in the case of a man who has been given a slave in pledge and then, when the debtor comes to redeem his pledge, claims that the slave has run away: the judge is instructed to make him swear "that he is not responsible [for the slave's disappearance], either himself or together with another, and does not know of another who is responsible",[25] and if he refuses to swear he will be held liable for the value of the slave.

20 So e.g. Gagarin 1997, 126. The clause, on its face, only refers to an accuser who is a slave, but could be taken to apply also *a fortiori* to one who is free.

21 Parker 2004, 71–72.

22 Compare, for example, the Homeric adjective *thēlutera*, which means not "more female" (whatever *that* might mean) but "of that one of the two sexes which is female".

23 As Parker notes, it is not specified *what* she is to swear to; but since no other rule at all is laid down for deciding cases of rape, she was probably asked to swear both to the truth of her accusation and to any other facts bearing on the penalty (e.g. her status or, if she was a slave, whether she had been a virgin at the time of the offence). Gagarin 2010, 131–2, however, thinks the oath provision refers only to the question of virginity, about which "often only the slave woman would know for certain", with the implication that if the woman was free (in which case her virginity or non-virginity did not affect the penalty), the verdict would be decided by the judge under his own oath.

24 It is not entirely clear what he is to swear, but probably it is that less than fifteen days have elapsed since he was first seised of the case.

25 If he *does* know of another person who is responsible (e.g. by stealing the slave), he will doubtless name the person so that the debtor can take action against *him*.

It is not clear whether witnesses were normally required to swear,[26] but in certain types of case we know they were. Thus, in the case of a man taken in adultery, the Great Code provides that

> if he says that he was plotted against [i.e. entrapped and falsely accused], his captor shall swear, together with four others (if the ransom demanded is fifty staters or more), or with two others (in the case of an *apetairos*), or the master and one other (in the case of a serf), each man calling down curses on himself, that he took him in adultery and did not plot against him (ii 36–45).

These additional swearers must have been present at the capture, otherwise they would not be in a position to swear to the facts, and in Athens they would have been regarded as witnesses, as their equivalents are in Lysias' speech *On the Killing of Eratosthenes*.[27] The law we have here, to be sure, does not call them witnesses, and it is sometimes said[28] that they should not be regarded as such but rather as reinforcers of the captor's own oath ("oath-helpers", as they are known by students of early Germanic law). However, another law, dealing with children born after a divorce (iii 44–iv 8), contains similar provisions for extra swearers and does call them witnesses (*maitures*):

> If a divorced woman bears a child, she shall bring it to her [ex-]husband's house before three witnesses. If he does not accept it, the mother is free either to rear or expose the child. The relatives by marriage[29] and the witnesses shall be oathier on the question of whether they brought it [to the husband]. If a woman of serf status bears a child after divorce, she shall bring it to the master of the man she had been living with, before two witnesses. If he does not accept it, the child shall be in the power of the woman's own master;[30] but if she returns to live with the same man before the expiry of a year, it shall be in the power of the man's

26 So rightly Gagarin 1989, 49, pointing out that if the witness's oath was a "well-known universal requirement" it would not in general need to be mentioned in the law on any particular subject. Gagarin 2010, 134 finds it "more likely [that] all witnesses swore an oath before testifying".

27 Lys. 1.23–24, 29, 40–42. Those witnesses are in fact on oath, but that is only because the case is one of homicide (see §5.14).

28 Bonner & Smith 1930–8, ii 174–91, esp. 187; Willetts 1967, 60; *contra*, Gagarin 1989, 47–52 who concludes that at Gortyn there is no evidence for "true oath-helpers" and all persons taking oath in support of one or the other litigant "are expected to have knowledge of [some relevant] facts of the case".

29 That is, the *ex-husband's* relatives by marriage – the kinsmen of the ex-wife, with whom she would be living and who would doubtless go with her to her ex-husband's house. The fact that they are mentioned separately from the "witnesses" may be mere imprecision of drafting, or it may indicate that there had to be three witnesses *from outside the woman's immediate family*.

30 sc. to rear or expose.

> master. And [in the case of a serf woman] the man who brought [the child], and the witnesses, shall be oathier.

The situation envisaged is one in which the ex-husband alleges that a child was exposed without his being given the opportunity to take and rear it, in which case the mother would be liable to a fine of fifty staters (iv 8–14): if those who brought the child to him swear that they did so, they are to be believed.

Sometimes it is envisaged that oaths will be taken on both sides. *IC* iv 81.11–16 (and also *IC* iv 75 A 8–12) deal with disputes arising over the boundaries of land which has been given in pledge (or over whether the person giving the pledge really owns the whole plot). One party may summon the other to mark out the land; if the latter does not answer the summons, the person who issued it may mark out the land himself and call on his opponent to meet him in the *agora* in four days' time; to this meeting, which must precede recourse to the judge, each party will bring witnesses to swear to the truth of their respective contentions, and "the winning case will be that to which the greater number swear".[31]

5.3 Athens: introduction

All in all, at Gortyn – and our evidence strongly suggests that things were similar across most if not all the Greek world in the seventh and sixth centuries, and in many places long after – contests of oaths were a ubiquitous feature of the administration of justice. In situation after situation the judge was instructed to ask this party or that party to swear, and to give judgement in his favour if he did swear and against him if he did not; or he was required to decide in favour of the party who produced such and such a number of persons to swear in his support, or produced more of them than his opponent. It is often far from clear why one type of case is required to be decided in this way while another type (or the same type in different circumstances) is left to the discretion of the judge under his own oath; it *may* be that older laws tended to prescribe automatic procedures and newer laws to prescribe discretionary judgements, but it is very doubtful whether this can be set up as anything like a universal rule.[32]

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31 "The greater number" is (mostly) a restoration, but a plausible one; see Gagarin 1989, 51 with n.47.

32 Gagarin 1997, 126–7, argues that decisions by contest of oaths are prescribed in cases in which "there is not likely to be any other evidence available to settle the case". This, however, is certainly not an absolute rule; indeed, as was seen in the

At any rate, in Athens, by the classical period, all this has been swept away, except (to a limited extent) in homicide cases and other trials before the Areopagus Council (see §5.14). No longer are automatic decision procedures prescribed by law. Both sides still swear to the truth of the cases they are presenting, but they normally choose their own wording, and the procedure is not used to decide the case but merely to define the issues at a preliminary stage. In theory a case *can* still be decided by a contest of oaths, but this can only occur if both sides agree to it, and in practice they almost never do. Emblematic of the transformation is a passage in Aeschylus' *Eumenides* (on which see further §5.14). Orestes, who has killed his mother and is being pursued by her avenging Erinyes, has taken sanctuary at Athena's temple on the Acropolis, where the Erinyes surround him. Athena herself arrives and asks what is going on. The Erinyes tell her what Orestes has done:

Erinyes: He saw fit to become the murderer of his mother.

Athena: Was that because of compulsion, or because he was in fear of someone's wrath?

Erinyes: Why, what goad is there so powerful that it can drive one to commit matricide?

Athena: Two parties are present: I have had only half the story.

Erinyes: He will not accept our oath, nor be willing to offer his own.

Athena: You're more concerned to have a *reputation* for justice than to *act* with justice.

Erinyes: What do you mean? Explain – you're not lacking in cleverness.

Athena: I say that an unjust cause should not gain victory by means of oaths.

(A. *Eu.* 425–32)

It is evident that in the view of the Erinyes – to put it in Homeric terms – the proper *dikē* for deciding Orestes' fate would be to demand that he swear he did not kill his mother – which, of course, he cannot do. Athena, as soon as she heard the charge, was alive to the possibility of excusing or mitigating circumstances, and knew that such a *dikē* would not be just (*dikaion*, a word that appears in both the key lines 430 and 432). Had she been a judge in the city depicted on Achilles' shield, she would have formulated an oath for Orestes that took account of the real issue between him and his accusers. In fact, in the spirit of fifth-century

previous section, when there are witnesses on both sides, oaths are sometimes prescribed and sometimes not.

Athenian justice, she abandons the idea of an oath-contest entirely. Neither in her initial examination of Orestes (436–69), nor in the trial itself (566–753), is either party asked to take an oath, nor do they even volunteer one; the first oath by either side is heard only after Orestes' acquittal (762–74) and has nothing to do with the killing of Clytaemestra – it is an undertaking by Orestes that, in his posthumous capacity as a hero, he will ensure that future rulers of Argos remain faithful to the eternal alliance he has pledged between Argos and Athens.[33]

5.4 The dicastic oath

There *is*, in fact, an oath that is vital to Orestes' trial, but it is not taken by the prosecutor or defendant; it is taken (offstage) by the *judges*, and referred to repeatedly before and during the trial (*Eum.* 483, 489, 621, 680, 710). In the speeches of the Attic orators, correspondingly, there are only about a dozen references to the preliminary oaths (*antōmosiai*) of the litigants, compared with more than a hundred mentions of the oath of the judges.

This revolution in the working of the judicial system was very probably connected with the transition – begun by Solon, and completed no later than the early fifth century – from judgement by individual magistrates (principally the nine archons) to judgement either by the whole assembled people (known, when meeting for this purpose, as the *ēliaia*)[34] or, increasingly as time went on and judicial business became heavier, by large juries (numbered in hundreds) selected from citizens over thirty who had volunteered, and sworn the dicastic oath, at the beginning

33 See further Sommerstein 2010a, 27–30.

34 Possibly (though we are nowhere actually told this) the *ēliaia* differed from the *ekklēsia* in being restricted, as the later jury-courts were, to citizens over the age of thirty. It is not clear whether any special oath, or equivalent, was taken by those participating in a session of the *ēliaia*; the practical difficulties would be almost as great as at a normal assembly meeting (see ch.4). It is true that at the "trial" of the Arginusae commanders in 406, according to Xenophon, Euryptolemus said that if his proposal was agreed to, and the accused tried individually, "the guilty will receive the heaviest punishment, the innocent will be set free by your hands … and you will be judging them according to the law, acting piously and *being true to your oath* (*euorkountes*) (Xen. *Hell.* 1.7.24–25); but he might well have been alluding to the "ephebic" oath (§2.3), by which every citizen bound himself to obey "the established laws".

of the current year.[35] Such vast bodies of judges could not deliberate on the proper formulation of a decisive oath for one or both parties to take, nor make such proposals individually;[36] they could only decide, by some form of voting, between a limited number of alternatives (normally just two)[37] presented for their choice.

We have one glimpse from the archaic period of a trial by a large body of judges, but it was clearly an *ad hoc* affair. This was the court that tried the men responsible for the allegedly sacrilegious killing of the associates of Cylon after the latter had attempted to seize the Acropolis and set up a tyranny; we hear that it consisted of three hundred men selected "by nobility of birth" (*aristindēn*) and that they took an oath "over sacrifices".[38] Other than this, our knowledge of oaths in the Athenian judicial system begins in the fifth century.

To begin with the most important of them all, the dicastic oath.[39] In the course of his speech *Against Timocrates*, Demosthenes (or rather his client Diodorus) has this oath read to the jury, and what purports to be its text is presented by our manuscripts (and also by a papyrus of the third century AD) as part of the speech (Dem. 24.149–51):[40]

> "1. I will vote according to the laws and decrees of the Athenian people and of the Council of Five Hundred.
>
> 2. And I will not vote for the establishment of a tyranny or an oligarchy; and if anyone attempts to overthrow the Athenian democracy, or makes a proposal against it, or puts such a proposal to the vote, I will not do his bidding; nor will I vote for a cancellation of private debts, or for a redistribution of the Athenians' land or houses; nor will I restore the exiles, nor those who have been condemned

35 That the oath was taken for the year, not for every day or every trial separately, is shown by Isoc. 15.21. The fact may help to explain why speakers so frequently remind the jury of their oath: it will often have been many months since they had sworn it.

36 Cf. Arist. *Pol.* 1268b4–22 on why juries, when voting to determine the penalty for a convicted offender, were only allowed a two-way choice between prosecution and defence proposals.

37 A jury might have more than a two-way choice in a so-called *diadikasia*, when they had to decide (e.g.) who was legally entitled to inherit the estate of a deceased property-owner; there were then (leaving aside minor complications) as many voting-urns as there were claimants to the estate (Dem. 43.10).

38 The conspiracy and its aftermath are narrated (with considerable differences) by Hdt. 5.71 and Thuc. 1.126. For the trial, see Plut. *Sol.* 12.3–4 and the broken opening sentence of the Aristotelian *Ath.Pol.*

39 See on this Mirhady 2007, though, as will become evident, I do not agree with all his conclusions.

40 I have inserted paragraph numbers for convenience of reference.

> to death, nor will I myself expel those who have remained[41] contrary to the laws now in force and the decrees of the Athenian people and the Council, nor will I allow anyone else to do so.
>
> 3. I will not establish any magistracy to hold office while still subject to audit in respect of another office, including those of the nine archons, the *hieromnēmōn*, all office-holders who are chosen by lot on the same day as the nine archons, and of herald, ambassador, and assessor to a magistrate, nor allow the same person to hold two offices in the same year.
>
> 4. Nor will I accept any gift on account of my service as a juror, neither I nor any other man or woman with my knowledge, by any means or device whatsoever.
>
> 5. And I am not less than thirty years old.
>
> 6. And I will give an equal hearing both to the accuser and to the defendant, and I will cast my vote upon the actual matter which is the subject of the charge."
>
> This is to be sworn by Zeus, Poseidon and Demeter, to invoke utter destruction on [the swearer] himself and his house, if he should transgress any of these provisions, but to have many blessings if he keeps his oath.

Our texts of lawcourt speeches regularly mark the points at which the speech was interrupted for the reading by the clerk of witness statements, laws, decrees and other documents. Usually we find simply a notation of the nature of the document – "Testimony", "Law", or whatever it may be – but sometimes, as here, the purported text of the document is also transmitted. In some cases there is no reason to doubt that a document is genuine; in other cases they are clearly spurious (for example all those that appear in the speech *On the Crown*, Dem. 18). Each case must be decided on its merits (MacDowell 1990:43–47), though there are a number of useful criteria that can be applied.

One of these happens not to be available here. Often when an orator cites a document he will comment on it before or after it is read; if such comments are inconsistent with the text of the document as transmitted, the document is almost certainly spurious (though the converse does not hold). Here, however, Diodorus has cited the dicastic oath purely to demonstrate that, unlike the oath taken by the Council, it does *not* contain the clause "I will not imprison any Athenian".

Another valuable criterion, whose importance is particularly stressed by Canevaro 2013,[42] is supplied by the marginal "stichometric" marks in

41 This no doubt refers to supporters of the oligarchy of 404–403 who had not taken up the option to migrate to Eleusis after the restoration of democracy (cf. *Ath.Pol.* 39).

42 I am most grateful to Mirko Canevaro for making relevant parts of this work available to me well in advance of publication.

certain manuscripts, which survive sporadically from what was originally a systematic marking of each complete 100 lines of text. Canevaro has shown that the text in which these marks were first inserted included some of the transmitted documents (such as those in Demosthenes 23) and omitted others (such as those in Demosthenes 18, 19 and 21), and has argued very persuasively that documents which were not present in this "stichometric edition" were inserted into the text, probably in later Hellenistic times, by teachers or students of rhetoric, and are at best reconstructions and at worst downright forgeries.

Now the document that appears at Dem. 24.149–51 is one that was not present in the stichometric edition. Moreover, it contains at least one manifest error: it states that the oath is to be sworn "by Zeus, Poseidon and Demeter", when our other sources indicate that the gods invoked were Zeus, Demeter and *Apollo*.[43] It is thus certainly not an exact transcript of the dicastic oath as it stood in Demosthenes' time or, probably, at any other time. But it is equally certain that it is not simply the product of a Hellenistic rhetorician's imagination. Some of its clauses are independently attested to have been part of the dicastic oath, and most if not all of the rest, as I shall attempt to show, are likely to have been part of it at one time or another. The compiler of the document probably derived them from references to the oath in one or another of the hundreds of forensic speeches, most of them now lost, that existed in his time, including in particular one or more speeches dating from shortly after the restoration of democracy in 403 BC.[44] Let us examine the document in sequence.

(a) Nine of the ten Attic orators, in a total of about twenty-six passages,[45] remind the jurors of their oath to vote in accordance with the laws (paragraph 1); another passage (Hyp. *Dem.* 1) speaks of "the decrees of the people, in accordance with which you have sworn to cast your vote".

(b) Paragraphs 2 and 3, while they have no direct relevance to the jurors' ordinary judicial functions, are highly relevant to the work done after 403/2 by the *nomothetai*, who were chosen from among those who had sworn the dicastic oath (see §5.15). Once it was decided not to frame a separate oath for the *nomothetai*, it was natural, indeed inevitable, for clauses dealing with the jurors' new role as scrutineers of legislation to be

43 Pollux 8.122; cf. [Dem.] 52.9, Dein. fr. inc. 29 Conomis.

44 The reference to "those who have remained" in paragraph 2 would have become meaningless when the separate state of Eleusis was reincorporated in Athens in 401/0 (Xen. *Hell.* 2.4.43; *Ath. Pol.* 40.4).

45 References in Mirhady 2007, 229 n.9.

introduced into the dicastic oath. The undertakings given in these paragraphs are designed to entrench certain features of the Athenian political system beyond possibility of change. First among these, as one might have expected after the events of 411 and of 404–403, is democracy itself; but this is balanced by a clause guaranteeing the key rights of property-holders,[46] and an undertaking not to restore the (oligarchic) exiles is likewise balanced by an undertaking not to expel those former supporters of the Thirty who had remained in Athens. Paragraph 3[47] was no doubt designed to prevent an accumulation of offices which might enable an individual to concentrate a dangerous amount of power in his hands, but it was probably found inconvenient – as it stands, it would prevent anyone who had held an office in one year from holding any office whatsoever in the next[48] – and must eventually have been dropped; certainly by the 330s one man might hold two offices at the same time.[49]

(c) Paragraph 4, though not mentioned in other surviving sources,[50] is a very necessary precaution, to guard against the possibility of a juror claiming (as Lord Chancellor Bacon famously did when impeached for

46 Andocides (1.88), speaking in 400 or 399, argues that a law passed in 403/2, prescribing that judgements and arbitration awards rendered under a democratic regime should be treated as valid and binding, was designed to ensure "that there should be no cancellations of debts … and that private contracts should be fulfilled". Whether or not he is right about the motivation for this law, his words show that at that time there was a genuine fear among the propertied classes that a cancellation of debts might be attempted. Redistribution of land had been attempted by the democrats of Leontini in the late 420s, with disastrous consequences to themselves and their city (Thuc. 5.4.2–3), and was implemented by some fourth-century democracies (*Ath.Pol.* 40.3); cf. Pl. *Rep.* 565e-566a, *Laws* 684d-e, Arist. *Pol.* 1305a3–7, 1309a14–20.

47 The detailed listing of offices is incomplete and unnecessary, and is probably due to the compiler.

48 Because he could not undergo his audit (*euthunai*) for the first office until after his term had ended, i.e. until after the magistrates for the new year had assumed office.

49 In 337/6, when Ctesiphon proposed his decree awarding a crown to Demosthenes, Demosthenes was both one of the *teichopoioi* and administrator of the theoric fund (Aeschines 3.9–31); Aeschines makes no attempt to argue that it was illegal for him to have held both these positions at once.

50 No doubt because it would only rarely be *appropriate* to do so: a speaker in court would not wish to offend his jury by suggesting that some of them might have taken bribes. The phraseology of *IG* ii² 1183.8–9 (see §3.4) is closely similar to that of this paragraph.

corruption in 1621)[51] that while he had indeed accepted gifts, this had had no influence on his verdict. The draftsman's anxiety to close possible loopholes is evidenced by the double pronoun *allos ē allē* "any other man or woman"; he feared that if he only wrote *allos*, a juror might think he had the right to turn a blind eye to gifts made by litigants to his wife, sister or mother.

(d) We know that the Athenians set much store by the careful policing of age qualifications for the exercise of citizenship rights (paragraph 5). On coming of age, the young Athenian underwent a double scrutiny (*dokimasia*), first before his deme assembly and then before the Council, and the scrutinizing bodies were entitled to inspect him nude to satisfy themselves that he had reached the legal age.[52] There was no easy way to determine from physical signs whether a man was in his late twenties or his early thirties, and if an under-age man served as a juror he was depriving some other, qualified person of the opportunity of serving and earning pay; hence it was reasonable to require jurors (and likewise councillors; cf. §3.3) to swear to their age.

(e) The two provisions of paragraph 6 – that the juror will give both sides an equal hearing, and that he will vote "upon the actual matter which is the subject of the charge" (sc. and not on irrelevant grounds) – are mentioned by the orators, separately, in a number of passages as part of the dicastic oath.[53]

(f) Paragraphs 1–6 are statements or promises in the present or future indicative, made by the juror himself in the first person singular. The last paragraph of the document, by contrast, is an instruction to him, couched in the infinitive (as is usual when a law or decree prescribes that some action be taken) and referring to the juror in the third person. The same pattern is found in the decree of Demophantus (Andoc. 1.96–98),[54]

51 The two petitions on which the charges against Bacon were initially based were both from litigants who had given him presents and had then lost their cases. See Gardiner 1896, 58–103.

52 *Ath.Pol.* 42.1–2; cf. Ar. *Wasps* 578 (where a youth's body is displayed to a jury, presumably when he is appealing against rejection by his deme).

53 Equal hearing: Isoc. 15.21; Aeschines 2.1; Dem. 18.2; Hyp. *Lyc.* fr. 1. Vote on actual subject of charge: Dem. 45.50; Aeschines 1.154. See Mirhady 2007, 230 nn.22, 26.

54 Reference is also made to this decree in two later speeches (Dem. 20.159; Lyc. *Leocr.* 124–7). The authenticity of the document transmitted in our text of Andocides has been disputed by Canevaro & Harris 2012. While this document is certainly not "the law from the stele" which Andocides at his trial instructed the clerk to read at this point (Andoc. 1.96), and must therefore have been inserted into his text at a later (probably Hellenistic) date, its content and language can be

passed in 410 on the restoration of democracy after the rule of the Four Hundred and then of the Five Thousand, which gives the wording of a first-person oath against attempts to overthrow democracy and continues:

> All Athenians shall swear this[55] over full-grown sacrifices, the customary oath, before the Dionysia; and [the swearer] is to pray that if he keeps his oath he may have many blessings, but that if he breaks it he may be utterly destroyed, himself and his descendants.

But although it is thus likely that every clause in our document derives in substance from a clause that at some time formed part of the dicastic oath, there are also at least two expressions, attested as belonging to that oath, which do not appear in the document.

One is another clause related to the restoration of democracy, and the termination of the civil war, in 403. Andocides (1.90–91), speaking three or four years later, in arguing that the charge of impiety against him violates the letter and spirit of the amnesty agreed at that time, draws attention to three important oaths: one "common to the whole city, the one you all swore after the settlement", secondly that of the councillors, and thirdly that of the jurors:

> And you yourselves, Athenians, are judging after swearing an oath that says what? "And I will not recall past wrongs nor heed another's persuasion to do so, but I will vote according to the laws now in force."

As many speeches of Lysias and Isocrates amply demonstrate, jurors were subjected, in the quarter-century after 403, to a vast amount of "persuasion" to look with disfavour on prosecutors, defendants, or candidates for office who had been on the wrong side (or even been neutral)[56] in the time of the civil war; and if they did give biased decisions against such men, their victims had no appeal or redress – except such as the gods might provide. It thus makes excellent sense that this clause should have been added to their oath;[57] it may have been removed at a

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shown to support the view that it is the authentic text of the decree referred to by Demosthenes and Lycurgus, probably taken by the interpolator from a collection of decrees like that of Craterus. I intend to argue this case fully elsewhere.

55 The verb here is a third-person imperative; in the next clause ("and [the swearer] is to pray …") it is infinitive.

56 Lys. 31.8–13, 27–33.

57 Mirhady 2007, 51 argues that Andocides is merely drawing out the implications of the oath to "vote according to the laws" when combined with the oath "after the settlement" which he has referred to just previously. This argument might well be plausible if Andocides had said, using indirect speech, that the jurors had sworn to bear no grudges. He chooses, however, to make what presents itself as a quotation of the actual words of their oath, even including the conjunction (*kai*

later date, but more likely it was overlooked by the compiler of our document.[58]

The second additional undertaking relates to the swearers' judicial activities, and is explicitly referred to, in very similar terms, in two Demosthenic speeches:

> You must also, men of Athens, see and keep in mind that you come here having sworn to judge according to the laws … and on matters about which there are no laws, by the justest opinion (Dem. 20.118)

> But on matters about which there are no laws, you have sworn to judge by the justest opinion; so even if there were no law in force about this matter, you would still be right to cast your vote on my side. For who is there among you who has given the same name to two of his children?[59] And among those who do not yet have children, who is going to do so? None, I am sure. So it is in accordance with piety that you should give in our case the verdict that your opinion considers to be just in the case of your own children (Dem. 39.40–41)

It therefore seems likely that at the end of paragraph 1 of the oath we should add the continuation: "… and on matters about which there are no laws, (I will vote) by the justest opinion".

Mirhady has argued[60] that the phrase "on matters about which there are no laws" was not part of the oath, because if it were, it would "limit its application in ways that conflict with other evidence". But this is only so if the phrase is arbitrarily taken to refer only to "gaps", or ambiguities, in the law. There is no reason to limit its meaning thus. Moreover, if the oath did not include this phrase, the juror would not know what to do if to the best of his judgement the law as it stood was unjust. The phrase "on matters about which there are no laws" clarifies this issue unequivocally. The

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"and") that linked this clause to preceding ones; if these words did not in fact appear in the oath, he is taking a serious and entirely unnecessary risk of being detected in a lie. Moreover, a stylistic feature of the sentence suggests that it was not composed by Andocides himself. The phrase *tous keimenous nomous* "the laws now in force" also appears in paragraph 2 of the oath text transmitted in Dem. 24.149–51, but is never used by Andocides himself; when *he* speaks of a law or laws "now in force" the adjective *keimenos* is placed after the noun (Andoc. 1.71, 89, 93, 103, 105).

58 As late as the 340s there were men alive in Athens – such as Isocrates (D.H. *Isoc.* 1), or the father of Aeschines (Aeschines 2.147), or the prominent politician Aristophon (Σ Aeschines 1.64) – who had been in their thirties during the civil war; and even those who were then children, or who were born afterwards, might have been attacked by recalling the alleged misdeeds of their ancestors.

59 The speaker, Mantitheus, has brought this action with the aim of forcing his half-brother, originally named Boeotus, to refrain from using the name Mantitheus.

60 Mirhady 2007, 52–53.

authority of the law is absolutely paramount: only where the law is silent is "the justest opinion" to be followed.

Mirhady is, I am sure, correct to hold that the "justest opinion" clause was primarily, though not exclusively, meant and taken to refer to what would now be called questions of fact; and these are indeed "matters about which there are no laws". Aeschines' *graphē paranomōn* against Ctesiphon in 330 accused him of violating three laws, among them one that prohibited the entering of a false statement into the public records (the false statement complained of being that Demosthenes "continually says and does what is best for the people"). If there was indeed such a law,[61] the jury would not be at liberty to disregard it. But there was no law to tell them whether Demosthenes had or had not said and done what was best for the people; that question, which would (and did) effectively determine their verdict, they would have to decide on the basis of "the justest opinion".

Broadly speaking, there are four types of issue which might be covered by the "justest opinion" clause.

(1) Questions of fact, as discussed above.

(2) Questions regarding the interpretation of vague or ambiguous expressions in a law (cf. Lanni 2006, 72). For example, the law of *hubris*[62] said that a person who "committed *hubris* against a child or a woman or a man, whether free or slave" could be prosecuted by a specified procedure, but it appears not to have included any definition of *hubris*; whether a particular defendant's behaviour did or did not amount to *hubris* was a matter for the jury's "justest opinion".

(3) There might be issues crucially relevant to a trial that were of an ethical rather than a legal nature. For example, Mantitheus' suit against Boeotus (Dem. 39) was probably brought under the very flexible rubric of "damage" (*blabē*).[63] Now clearly there are many ways in which one man may damage another which would not justify judicial intervention on the latter's behalf. If I am a shoemaker, and you set up a shop on the other

61 Aeschines never actually cites such a law or has it read to the jury; he merely makes a sweeping assertion (3.50) that "all the laws" forbid such false statements.

62 The purported text of this law in a document transmitted at Dem. 21.47 was not part of the "stichometric edition" (see pp. 71–2 above and Canevaro 2013), and its pedigree is thus dubious, but the words cited above are quoted directly by Aeschines 1.15.

63 Cf. Dem. 39.13: "All right then, that is how the community is damaged. And in what way am I damaged as an individual? Look at the extent of it, and see if what I am going to say amounts to anything; for it is far more serious than what you have already heard." On suits for *blabē* see MacDowell 1978, 149–53; Todd 1993, 279–82.

side of the Agora which sells shoes that are better than mine, or cheaper, or both, you are likely to damage my business and cause me considerable material loss, but I am unlikely to get very far by bringing a lawsuit against you (unless indeed I can persuade the jury that, say, you use stolen leather). Should the inconvenience and embarrassment caused to Mantitheus by the existence of another man with precisely the same name[64] – given that the latter also has an alternative name, Boeotus, which he could use if necessary – be treated as actionable damage? The law has nothing to say on the subject (Mantitheus cites none)[65] and the jury will have to base their decision on their own sense of right and wrong.

(4) The case of Leptines (Dem. 20) was a prosecution for "proposing an inappropriate law". Here, in effect, the law itself (not yet in force) was on trial. Certain purely legal issues might arise in such trials (e.g. if it was claimed that the new law was in conflict with one or more existing laws which had not been repealed), but the procedure was designed to, and did, leave prosecutors free to argue, as Demosthenes does at great length, that the law is unjust and inexpedient, and the jury are evidently expected to make their decision mainly on this basis.

In one passage (Dem. 57.63) the phrase "by the justest opinion" is coupled with another, "not from favour nor from enmity". This passage, however, refers not to the dicastic oath but to that taken by members of a deme on the occasion of a revision of the deme register. That was a very special situation, because every demesman would be voting to determine whether every other demesman should retain his citizenship; almost all the demesmen would know each other personally,[66] and there would be many friendships and many enmities among them; it was understandable that the decree ordering the revision of the register should prescribe an oath in these terms.[67] Jurors, on the other hand, except in high-profile political

64 viz. Mantitheus, son of Mantias, of the deme Thoricus.

65 He does say that "the law, which you all know as well as I do, gives parents the power not only to give a name in the first place, but also, if they wish, to erase it again and disown their children" (Dem. 39.39), but he never asks for this, or any other, law to be read to the jury.

66 In the speaker's deme of Halimous, the number attending the revision meeting, and taking the oath, was seventy-three (Dem. 57.9).

67 According to the speaker, his enemies (one of whom was the chief official of the deme) improperly omitted these words from the oath they administered to the demesmen. We may well be sceptical about this: no witness is called to support the allegation, and if it were true, one would have expected the speaker to make much more of it, at an earlier stage of his speech, and to use it as a basis for

cases, were normally judging disputes between men who were strangers to them, and there was correspondingly less reason to include such a provision in their oath. If there were substantial evidence that this phrase *did* appear in the dicastic oath, there would be no reason not to accept it; but in fact there is no such evidence.

I conclude, therefore, that the document in Dem. 24.149–51 is a compilation based on references in the orators (including at least one speech dating from 403/2 or soon after) to various clauses of the dicastic oath. At least two clauses otherwise attested were overlooked by the compiler (and there may of course have been more omissions about which we know nothing), and their sequence may have been quite different from that of the document; paragraph 6, for example, may well originally have directly followed paragraph 1.[68]

The fifth-century oath may thus have been something like this:

> I will vote according to the laws and decrees of the Athenian people and of the Council of Five Hundred; and on matters about which there are no laws, I will vote according to the justest opinion. And I will give an equal hearing both to the accuser and to the defendant, and I will cast my vote upon the actual matter which is the subject of the charge. And I will not accept any gift on account of my service as a juror, neither I nor any other man or woman with my knowledge, by any means or device whatsoever. And I am not less than thirty years old. I swear this by Apollo Patroios, Demeter, and Zeus the King;[69] if I transgress any of these provisions, then may I be utterly destroyed, myself and my house, but if I keep my oath may I have many blessings.

To this in 403/2 were added a clause enforcing observance of the amnesty and a series of clauses forbidding the jurors in their capacity of *nomothetai* to do certain things which either amounted to revolution or might facilitate revolution; at some later date one of the latter group of clauses, forbidding cumulation or immediate succession of magistracies, was deleted.

The oath was taken at a sanctuary of the hero Ardettus in a locality of that name "above the Panathenaic stadium, near the deme of Lower Agryle" and the river Ilissus.[70] Ardettus was said to have ended a period of civil strife by imposing an oath of reconciliation. This suggests that the practice of taking the oath at his sanctuary may have begun, like so much

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arguing that the whole revision process in Halimous had been legally null and void.

68 Cf. Mirhady 2007, 50–51.

69 See p. 72 above; the sequence and the epithets are as in Poll. 8.122 (the sequence also in Dein. fr. inc. 29 Conomis).

70 Poll. 8.122; Harpocr. α229. For its location see Travlos 1971, 291, 498.

else, in 403; it was mentioned in a speech attributed to Lysias (fr. 103 Carey). Later, according to Hypereides (fr. 40 Jensen), the politician Aristophon was nicknamed Ardettus "because he had frequently perjured himself there", and similarly Hesychius (α7098) says that "those who go to take oaths <too> readily" are called *Ardēttoi*; this suggests that other oaths besides those of the jurors were regularly taken there.

We turn next to the oaths that were, or might be, sworn during the progress of a lawsuit.

5.5 Litigants' preliminary oaths

The ghost of the ancient practice of deciding disputes by oath-contest lingered on in the "exchanged oaths" (*antōmosiai*) which each litigant swore at the preliminary examination (*anakrisis*) held by the magistrate who would later preside over the trial. According to Pollux (8.55) the prosecutor simply swore that his accusation was true, and the defendant that he had not done wrong; but there are passages in the orators (e.g. Isaeus 5.1–4) which show, at the least, that a document which was called an *antōmosia* could contain particulars of the allegations made or the defence raised. Probably what happened was that each party brought to the *anakrisis* a document summarizing the case he was putting forward, and that at the hearing each was required to swear to the truth of the statements made in this document, which thereby became an *antōmosia*. Plato (*Laws* 948d-e) argued – and Harrison and Martin[71] follow him – that this procedure "impl[ied] that one or other of the litigants was perjured"; but since the litigants (or their expert advisers) had drafted their statements themselves,[72] they would generally be able to frame them in such a way as to avoid saying anything that was actually false – or else they could abandon the case, with the result that justice was done while court time and money were saved.

There appears to have been one exception to the rule that both sides must swear at the *anakrisis* to the truth of their respective contentions. This was in the case where the defendant was dead and the plaintiff was

71 Harrison 1971, 100; Martin 2009, 263.

72 Though the magistrate might require a statement to be amended, for example if he thought it did not disclose legitimate grounds for an action that he could bring before a court. Thus when Agoratus was arrested for causing (by denunciation) the death of Dionysodorus and others, the Eleven insisted that the words "taken in the act" (*ep' autophōrōi*) should be added to the prosecutor's statement (Lys. 13.85–87).

suing his heir; in this case the heir had only to swear that he *believed* the defence he was raising was true ([Dem.] 52.17–18). The rationale for this was presumably that a son, for example, might often not know all the relevant facts about events in which his father, but not he, had been involved, and would not be in a position to swear to them.

In cases which were initiated not through a magistrate but through the *ekklēsia* or the *boulē* (through the procedures known as *eisangelia* and *probolē*) there appears to have been no *anakrisis* (cf. Hyp. *Eux.* 7), and we never hear of *antōmosiai* in connection with these types of case.

5.6 Excusing absence

A litigant who failed to attend the *anakrisis*, or the trial, of a case he was prosecuting or defending, would normally lose it by default, unless he (or someone acting on his behalf) had submitted a sworn statement giving a valid reason for his absence; such a statement, like other sworn statements that had the effect of preventing or delaying the decision of an issue,[73] was known as a *hupōmosia*.[74] The opponent might submit an *anthupōmosia* claiming that the excuse was false. In the inheritance dispute that forms the background to Demosthenes 48, the speaker submitted a *hupōmosia* on behalf of his then ally Olympiodorus (see S&T ch. 4) asking for a postponement of the trial because Olympiodorus was abroad on military service; but their opponents countered with an *anthupōmosia*, the issue was submitted to a jury who decided that Olympiodorus' absence was "for the sake of the lawsuit and not on public business", and the presiding magistrate accordingly struck out Olympiodorus' claim to the estate.[75] When Demosthenes was due to defend a *graphē paranomōn* brought against him by Theocrines, a *hupōmosia* was lodged just as the trial was being called on, saying that he was ill; in fact he was "going around railing against Aeschines" at the time, yet Theocrines, it is alleged, neither submitted an *anthupōmosia* nor did anything else to revive the case later – proof,

73 Such as the two types of *hupōmosia* that were made in the *ekklēsia* (see ch.4).

74 On a straightforward reading of Hyp. *Eux.* 7, *hupōmosiai* were not permissible in cases of *eisangelia*; but this would have the consequence that a man who was ill, away on a campaign, etc., might be convicted on a very grave charge (the immediate reference is to charges of attempting to overthrow the democracy) when unable, through no fault of his own, to present his defence, and probably Hypereides only means that in *eisangelia* cases the defendant did not have the additional opportunities for delaying tactics afforded by the *anakrisis* procedure.

75 Dem. 48.25–26.

according to his prosecutor, that he and Demosthenes were in collusion ([Dem.] 58.43). This ploy is described as "nothing new, but what some others of [Theocrines'] sort do".[76] *Hupōmosiai* could be made on similar grounds if a litigant was unable to attend on the day when a public arbitrator was to give his final verdict.[77]

Sometimes it would not be possible to enter a *hupōmosia* in time to prevent the case from going to one's opponent by default; one could then seek to set the judgement aside retrospectively. This was called *tēn mē ousan antilakhein* ("counter-suing for nullity"), and could be done up to two months in arrear (if the default judgement was that of a jury-court) or up to ten days (if it was the award of an arbitrator); it was necessary to swear that one had not absented oneself deliberately.[78]

5.7 Oath to avoid irrelevance?

When the actual trial began, according to the Aristotelian *Athenaiōn Politeia* (67.1), each party, at least in "private" suits,[79] had to take an oath that he would "speak to the actual subject" of the case. This statement has aroused suspicion, not so much because there is much material in surviving speeches that is relevant to the "actual subject" only tangentially or not at all, as because no one ever complains that his opponent, by discussing irrelevant matters, is violating his oath (Lanni 2006, 100). Rhodes (2004, 137–58) has argued with some cogency that on a broad (but not unreasonably broad) definition of relevance, speakers in the courts (in public and private suits alike) do for the most part (but by no

76 For another successful *hupōmosia* made on grounds of illness, see Hyp. fr. 202 Jensen. Sometimes, it seems, defendants conveniently discovered essential reasons for travelling to the eastern Aegean when a trial was due, especially to Lemnos, Imbros or Scyros (*com. adesp.* 808; Hsch. ι622).

77 Dem. 21.84, 39.37; [Dem.] 47.39, 45.

78 Poll. 8.60–61; cf. Dem. 32.27 (a plaintiff and defendant, having become reconciled since the action was launched, agree that the defendant shall let it go by default, but the defendant insists on absenting himself from the trial so that he retains the right to "counter-sue for nullity" if the plaintiff fails to fulfil his side of their bargain; if he did take this course, he would have to commit perjury – but the speaker is presenting him as a villain).

79 A private suit is best defined (see MacDowell 1978, 57–59) as one which could only legally be brought by the person who claimed he had been wronged (or, in the case of homicide, by a relative of the victim); a public suit was one that could be brought by any citizen who had not incurred a legal disqualification.

means always) keep to the "actual subject",[80] and from time to time recognize an obligation to do so or complain of their opponents' digressions; but that is a long way from showing that they were under a *sworn* obligation to maintain relevance. Yet the statement of the *Ath.Pol.*, about a contemporary Athenian practice, cannot be simply disregarded – and, as we shall see, our evidence is consistent with the view that an oath of this kind was introduced not long before the *Ath.Pol.* received its final revision.

Only one other passage in our sources refers to a sworn obligation to maintain relevance, and that relates specifically to trials before the Council of the Areopagus (and probably also the other special courts for homicide trials, those of the *ephetai*).[81] Euxitheus, the speaker of Antiphon 5, is being tried for the murder of Herodes in an ordinary jury-court, under the procedure of *endeixis*, which he claims is improper, telling his prosecutor that

> whereas you ought to have sworn the greatest and most powerful oath, invoking utter destruction on yourself, your descendants and your house, that in accusing me you would speak only about the killing itself, arguing that I committed it, so that even if I had committed many other crimes I could not have been convicted except on the actual matter before the court, and even if I had done many good things it would not have saved me – you have bypassed all this and invented laws of your own, and you are accusing me without having taken an oath … (Ant. 5.11–12)

It is almost impossible to believe that Euxitheus could have got away with saying this so emphatically if both he and the prosecutor, at the beginning of this trial, had sworn to speak "to the actual subject". There are also several fifth- and fourth-century passages indicating that the Areopagus Council was considered particularly strict in its insistence on relevance, and one of these[82] is of especial interest because it may give us a date for the introduction of the oath referred to by the *Ath.Pol.* Lycurgus, prosecuting Leocrates in 330, tells the jury:

> I will make my accusation in an honest way, saying nothing that is either false or outside the subject. Most of those who come before you do the most absurd things. Either they offer you advice here [in court] about political issues, or they bring out accusations and slanders about everything except the matter on which

80 Lanni 2006, 41–74, does not refute this, since she is working with a much narrower definition of relevance.

81 And in surviving speeches for trials before these tribunals, the standard of relevance is indeed somewhat higher than before ordinary juries (Lanni 2006, 90–105).

82 The others are Ant. 6.9, Lys. 3.46, and Arist. *Rhet.* 1354a22–23.

> you are going to be casting your votes. Either way they have it easy, whether they are expressing an opinion on matters about which you are not deliberating, or whether they are inventing accusations which no one is going to answer. But it is not right for them to demand that you cast an honest vote when they are not giving an honest prosecution speech. You are responsible for this, gentlemen. You have allowed this freedom to those who come before you, despite having the finest model in Greece in the shape of the Council of the Areopagus, a court which so much surpasses all others that even those whom it convicts accept that its judgements are fair. Look to it as your example, and do not tolerate those who speak outside the subject. In that way the defendants will have a trial free of irrelevant slander, the accusers will have much less scope for false and malicious charges, and you will be able to cast your vote fully in accordance with your oath. (Lyc. *Leocr.* 11–13)

This is a most powerful complaint, made not against the defendant – not even by way of anticipation – but against other prosecutors; not made, therefore, for tactical reasons pertaining to the current trial[83], but because Lycurgus perceived it as a real and serious problem in the working of the judicial system. In speaking of it he refers to an oath – but the oath in question is that of the jurors themselves, who have sworn to vote "upon the actual matter which is the subject of the charge", an oath which is much harder to keep if they are being harangued on irrelevant topics. If the delinquent prosecutors too were breaking an oath, Lycurgus would surely have said so.

The case of Leocrates was tried not long before Aeschines' *graphē paranomōn* against Ctesiphon[84], when both Aeschines and Demosthenes spent a fair proportion of their time launching substantial and scurrilous attacks on each other's character and antecedents. The *Ath.Pol.* was written in the late 330s, but some revisions seem to have been inserted between 330 and 325[85]. The reference to the oath against irrelevance may be one of these insertions; if so, that oath was probably introduced in the early 320s.

We possess nine lawcourt speeches definitely or probably datable to the 320s: four arising out of the Harpalus affair of 324 (three by Deinarchus, and Hypereides *Against Demosthenes*) plus three speeches in the Demosthenic corpus (25 and 26, the two speeches *Against Aristogeiton*,

83 Unless it was designed to raise a smoke-screen behind which Lycurgus could himself indulge in irrelevance while professing not to; this was sometimes done (Rhodes 2004, 150–1), but Rhodes in fact finds that almost everything in the speech can reasonably be seen as coming within his extended definition of relevance (*ib.* 148).

84 Aeschines 3.252.

85 See Rhodes 1981, 51–58.

and 56, *Against Dionysodorus*) and two others by Hypereides (*Against Athenogenes* and *For Euxenippus*). Only two of these are from private suits. *Against Dionysodorus* (323/2) keeps strictly to the topic at issue throughout; *Against Athenogenes* (between 330 and 324) contains an irrelevant section (29–34) about Athenogenes' migration to Trozen and his behaviour there. *For Euxenippus*, also not datable more closely than 330–324, is a supporting speech for the defence in an *eisangelia* case. The facts have doubtless been dealt with by the previous speaker(s), and Hypereides concentrates on arguing that the prosecution is an abuse of process and has been improperly conducted; everything he says is either relevant to issues the court would need to consider or else necessary in order to respond effectively to the prosecutor's lines of attack.

Of the speeches relating to the Harpalus affair, those by Deinarchus, especially *Against Demosthenes*, contain a good deal of irrelevant material; Hypereides' speech *Against Demosthenes*, which is far from complete, contains little if any.[86]

The absence from our sources, before the *Ath.Pol.*, of any indication that irrelevance was restrained by an *oath* (except in trials before the Areopagus and the *ephetai*) is strong evidence that this oath was a recent innovation when the *Ath.Pol.* was written or (more probably) revised; very likely it was an initiative of Lycurgus himself, who at the time was easily the most influential man in Athens. Before that time there had clearly been an *expectation*, to which speakers often paid lip-service, that speeches should not stray "outside the subject",[87] but equally clearly this convention was often ignored both in private and in public cases. In the 320s, the Deinarchus speeches, which are later than the latest datable additions to the *Ath.Pol.*, show that irrelevance was still not taboo in public prosecutions, though Hypereides seems to make some effort to avoid it; of our two private speeches from this period, the earlier contains a clearly irrelevant section and the later does not.

I conclude that the statement of the *Ath.Pol.* is accurate for the time at which it was written: litigants in private cases took an oath[88] to speak "to the actual subject"; those in public cases did not. This distinction may

86 See Rhodes 2004, 147, 149. Rhodes finds "a little material in col. 17" of the Hypereides speech unacceptably irrelevant; but to paint Demosthenes as a big spender, whose loyalty to Athens is dubious, can reasonably be regarded as helping the jury to decide whether or not he is likely to have taken bribes from Harpalus.

87 Cf. Rhodes 2004, 150–1.

88 Presumably on behalf of themselves and any others who might make supporting speeches; otherwise the oath would be completely ineffective.

seem surprising, not least because Lycurgus' remarks in the Leocrates prosecution clearly show that he was particularly concerned about irrelevance by prosecutors in public cases. It may be, however, that his proposals met with strong opposition from those leading politicians who frequently acted as prosecutors in such cases, and that he was forced to reduce the scope of his new law.

5.8 Oaths and oath-offers during court speeches

In the course of their actual speeches to the court, speakers fairly frequently reinforce important assertions or denials with an oath, or say they are prepared to do so. For the most part these oaths are purely "rhetorical"[89] and serve merely to add emphasis to the accompanying statement; but at least once, when an oath-offer is made (or rather expected to be made) with special circumstances of solemnity, we find the opponent expressing serious concern that the court will find it strongly persuasive.

Ariston has prosecuted Conon (Dem. 54) for assault (*aikeia*), and towards the end of his speech (54.38) he says:

> I think I had better forewarn you of something I hear he intends to do which is the most shameless thing of all. They say he is going to make his children stand beside him and swear an oath on their heads, calling down gruesome and terrible curses which my informant was amazed to hear. Such audacity is hard to resist, members of the jury, since I fancy it is the most upright people, who would be least likely ever to tell a lie themselves, who are most often deceived by actions such as that; all the same, what you need to do is look to a man's life and character before deciding whether to believe him.

Whereupon Ariston brings up stories about Conon's past as evidence of his impiety and his casual attitude to perjury, adding (54.40) that a man who swears on his children's heads "in a manner contrary to custom"[90] does not deserve belief in any case. He then produces to the court a formal oath-challenge (see §5.11) which he himself had made earlier in the proceedings and which had evidently been refused, and continues:

> That is what I was willing to swear before, and now I swear by all the gods and all the goddesses for the sake of you, members of the jury, and of the general public

89 See Gagarin 2007, 45–46.

90 It is not clear what this means. The mere fact of swearing on one's children's heads was not in itself improper, otherwise Demosthenes (29.26, 33, 56) would never have represented his own mother as having been willing to do so. Presumably then the reference is to the "gruesome and terrible curses".

> here,[91] that I am prosecuting this case after suffering what I have complained of at Conon's hands, and being repeatedly struck, and having my lip cut so badly that it required stitches, and being treated with *hubris*. And if my oath is true, may I have many blessings and may nothing of the same kind ever happen to me again; but if it is false, may I be utterly destroyed, myself and whatever I have or will have in the future (54.41).

As so often, things are not quite what they seem here. It is not surprising that Conon should be intending to associate his sons with him in his oath of innocence; one of them, Ctesias, as both sides agreed, had been involved in the fight in which Ariston had been injured (54.8, 31), and Ariston in his speech had accused Conon's other son(s) too of drunken, violent and impious behaviour (54.16–17). What is more, a vital issue in any case of personal violence was the question who had struck the first blow; and Ariston never actually alleges, either in the oath quoted above or anywhere else, that it was Conon or his son (or anyone else in their group) who did so.[92] What is more still, as Carey and Reid point out in their commentary,[93] Ariston's own oath is no weaker than Conon's, except that he has not taken it on the heads of his children – and that is probably only because he *has* no children.[94] It may well be that the main purpose of Ariston's vehement attack on the propriety of Conon's intended oath is to distract the jury's attention from the likely content of that oath, and from points, crucial to Ariston's own case, to whose truth he is neither swearing himself nor calling any evidence.

5.9 Did witnesses swear?

Today, when we think of oaths in legal proceedings, we think automatically of witnesses, who in English-speaking countries, and many others, are invariably required to swear (or solemnly affirm) that their evidence is the truth, and who if they give false evidence (whether on oath or on affirmation), are liable to be indicted for "perjury". In classical

91 Literally "those standing around".

92 It is true that in strict legal terms the question was not who had begun the fight, but whether Conon had struck Ariston before Ariston struck Conon (MacDowell 2009, 244 n. 11); but a plea by Conon that he had only intervened to protect Ctesias from an attack by Ariston might well have won the jury's sympathy.

93 Carey & Reid 1985, 103.

94 When he was taken home injured, "there was a lot of screaming and crying by my mother and the maidservants" (Dem. 54.9); he does not mention a wife.

Athens, so far as we can tell, witnesses, unlike almost all other participants in a trial, were *not* put on oath, except in three special situations:

(a) When they were testifying in a trial before the Areopagus Council or the *ephetai* (see §5.14).

(b) When they were *refusing* to confirm a deposition drafted for them by the party who had called them (see §5.10).

(c) One speech – Demosthenes 57 (*Against Eubulides*) – contains at least seven references to witnesses swearing to the truth of their evidence.[95] The contrast between this and the extreme paucity of such references elsewhere strongly suggests that the trial for which this speech was written was in this respect abnormal. An explanation lies ready to hand. The trial arose from an appeal by the speaker, Euxitheus, against the decision of his deme assembly to remove him from the citizen register of the deme. This decision was part of a general review of the registers (*diapsēphisis*) which all demes had been required to undertake in 346/5. When the deme assembly was carrying out such a review, all its members had to take an oath of special solemnity "over sacrifices",[96] and it would be only logical if, when an appeal was made from this assembly's decision, witnesses were likewise required to swear. A decision made by men under this extra-solemn oath, it might well be felt, ought not to be overturned on the basis of testimony given by men who were not on oath at all.[97]

In the fifth and early fourth centuries witnesses gave their testimony orally, and they could not be prevented from voluntarily fortifying it with an oath if they wished to; such a practice may underlie Socrates' statement in Xenophon's *Apology* (24) that the prosecution witnesses had been instructed, and had consented, to "give perjured evidence against me". From the 370s, however, the witness merely confirmed a deposition

95 Dem. 57.22, 36, 39, 44 *bis*, 53, 56.

96 Dem. 57.26 (referring to an earlier *diapsēphisis* conducted in Euxitheus' own deme only, after its register had been lost); the demesmen's oath is also mentioned in Dem. 57.8–9, 63, and Aeschines 1.78. It is not entirely clear in what capacity Timarchus took the oath over sacrifices referred to in Aeschines 1.114–15, since he did not belong to the same deme as the man whose right to citizenship he was attacking; perhaps the man's enemies had called him as a witness.

97 Compare what is said on a different subject (the reversal of a jury's decision by the *ekklēsia*) in Dem. 24.78: "Does any of you think that such a law is to the city's advantage – a law which is to have greater validity than the verdict of a court, and which will empower those who have not taken an oath to annul the decisions of those who have? I certainly do not."

drafted in advance,[98] and would have no opportunity to swear formally to it.[99] There is one striking exception. In his defence against Demosthenes' charge, brought in 343, of misconduct when serving as ambassador to Philip of Macedon three years earlier, Aeschines calls witnesses on eleven occasions. On ten of these occasions, nothing is said about the witnesses swearing. The eleventh (Aeschines 2.153–8) relates to Demosthenes' allegation (Dem. 19.196–9) that Aeschines and his associates, when in Macedonia, had stripped and flogged a free woman of Olynthus for refusing to recline and sing at a symposium as if she were a *hetaira*. Aeschines claims that Demosthenes had tried to bribe one Aristophanes of Olynthus, then living in exile at Athens, to testify falsely that the woman was a relative of his and that Aeschines had been guilty of drunken abuse of her, and that Aristophanes refused, saying that Demosthenes had judged his poverty correctly but his character wrongly. He then calls Aristophanes as a witness, together with two Athenians who had heard Aristophanes' story and reported it to him;[100] and when they have testified, he says: "You hear the witnesses swearing solemnly and testifying." Possibly Aristophanes, unfamiliar with Athenian practice, had confirmed his testimony in the manner customary at Olynthus.

That witnesses in ordinary Athenian trials were not normally put on oath is generally accepted by scholars as a fact; yet at some underlying level many of them still seem to feel it is incredible. The giving of false evidence goes on being called "perjury",[101] and the best convenient

98 We do not know exactly how this confirmation was sought and given. We know, however, that the deposition was first read out by the clerk of the court, and that the word used for confirming it was *marturein* "testify" (e.g. Dem. 29.15–16, 20; 45.60). Probably, after reading the deposition, the clerk turned to the witness and asked "Do you testify to this (*martureis tauta*)?" and the reply was "I do testify (*marturô*)".

99 For the distinction between "formal" and "informal" oaths, see S&T ch. 13.

100 These two witnesses are presumably called to prove that Aristophanes has not concocted his story under Aeschines' coaching, but was already telling it before he had even met Aeschines.

101 Humphreys (1985/2007) calls false witness evidence "perjury" six times in two paragraphs (154–5) and frequently elsewhere in the chapter, though there is no (other) sign that she actually believes that witnesses in ordinary trials were under oath. I cannot agree with Todd (1990, 36) that the use of this inaccurate term is "for the purpose of shorthand … sometimes convenient"; it is thoroughly misleading, given that "perjury" is regularly used in speaking of the ancient world (and indeed is used by Todd in the same paragraph) to denote false *swearing*. Some translators in the past have been thoroughly indiscriminate in this matter: thus A.T. Murray (1939), the Loeb translator of Demosthenes' private speeches, in one speech alone (Dem. 44) refers twenty-four times to a statement of

compendium of Athenian law currently available[102] tells its readers that the formula used by witnesses in court to confirm their written depositions "may or may not have included an oath" without citing any evidence that it did. I should perhaps, therefore, bring a couple of arguments to reinforce the conclusion that it did not.

In the first place, the very existence of a procedure for prosecuting false witnesses (the *dikē pseudomarturiōn*)[103] itself implies that there was normally no oath for witnesses. Nowhere in the Athenian legal system is there a procedure for prosecuting a person for making a false statement, where it is uncontroversial that the statement concerned would regularly have been made under oath. It was evidently assumed that the punishment of perjury (real perjury) could safely be left to the gods.

In the second place, we have eight surviving speeches (six for the prosecution and two for the defence) from *dikai pseudomarturiōn*,[104] and not one of them ever treats the offence charged as constituting, or as tantamount to, perjury. Prosecutors may accuse defendants of the grossest dishonesty and villainy; but they do not accuse them of shameless disregard for oaths, or refer to earlier occasions on which they had allegedly perjured themselves.[105] Defending speakers[106] do not attempt to show that the defendant is not the sort of man who would have the

testimony as having been "sworn" or even as carrying "the risk of the oath" (44.59) when there is nothing in the text to support this.

102 MacDowell 1978, 243.

103 In the special case where the allegedly false testimony was about the serving of a summons, the prosecution was a public one (*graphē pseudoklēteias*) and could be brought by any qualified citizen.

104 Prosecution: Isaeus 3 and 6*; Dem. 44*, 45, 46 and 47. Defence: Isaeus 2* and Dem. 29. The asterisked speeches were written for trials resulting from the *diamarturia* procedure in inheritance cases, whereby a claim to an inheritance could be blocked by someone submitting testimony that the estate was "not adjudicable" because the deceased had left a legitimate child. Dem. 45 and 46 were written for the same trial, though it appears that the speaker, Apollodorus, commissioned the former from Demosthenes and wrote the latter himself (Trevett 1992, 50–76).

105 There is an apparent exception that neatly proves the rule. The speaker of [Dem.] 47 says of one of his opponents that "he thought he could cheat me later, and in addition that he would find it easy to take refuge in an oath and perjure himself, something which he has also done to others" (47.31). But this opponent is neither Euergus nor Mnesibulus, the two witnesses he is prosecuting; it is Theophemus (brother of Euergus, brother-in-law of Mnesibulus), for whom they had been testifying.

106 It so happens that the two surviving defence speeches are both delivered by supporting speakers, not by the accused witness himself.

audacity to swear falsely. In Isaeus 2 (*On the Estate of Menecles*), much is said about a sworn agreement which the two sides had made earlier at the instance of arbitrators (2.32–33), and Menecles' brother is denounced for having violated it (2.40); yet far from making capital out of a sincere attempt by Philonides, the accused witness (and the speaker's father-in-law), to observe the agreement, the speaker does not even make it explicit that Philonides was party to it at all. In Demosthenes 29 (*Against Aphobus III*), as we shall see below (§5.11), Demosthenes refers to two oath-challenges or oath-offers, in which he, his mother, and at least two others were ready to swear to precisely the facts to which the accused witness, Phanus, had testified (29.26, 50–57); nowhere is there any attempt to make, or even hint at, the point that all these proffered oaths are in addition to, and confirm, an oath that Phanus swore when giving his testimony. This consistent silence is inexplicable unless it is indeed the case that these accused witnesses had *not* sworn to the truth of their evidence.

It has never been convincingly explained *why* Athenian witnesses were not normally sworn; and it does call for some explanation, seeing that witnesses did testify on oath at Gortyn (at least sometimes) and probably elsewhere, and that they did so in Athens in homicide trials and in other cases heard by the Areopagus Council. These latter were governed, or so Athenians believed, not by the laws of Solon but by the older laws of Dracon. Was it Solon who abolished the witness's oath in other cases? Had there once been a requirement in all cases, as there continued to be in homicide cases, that all witnesses should swear, not only that their own evidence was true, but that the case for the prosecutor (or defendant) *as a whole* was true? Did Solon perceive that this rule was in many circumstances highly inimical to the interests of justice? Did he therefore, in those parts of the legal system which he reformed, abolish the rule entirely, and introduce the *dikē pseudomarturiōn* as a substitute? The suggestion is speculative, but I know of nothing against it; it would be no more revolutionary than, say, forbidding enslavement for debt, or allowing certain types of prosecution to be brought by "whoever wished", both of which we know Solon did.

5.10 Refusing to testify: the *exōmosia*

In an ordinary trial, the one situation in which a witness *would* be required to swear was when he was not willing to confirm the truth of the deposition that had been prepared for him; the oath he then had to take was known as an *exōmosia*. Our earliest allusion to this procedure comes

from a surprising source: the Cassandra scene in Aeschylus' *Agamemnon*. Cassandra has been seeing, in prophetic visions, some of the crimes that have been or will be committed in Agamemnon's palace, and has described them in lyrics which the chorus (though not the audience) have found very hard to understand. Presently (*Ag.* 1178ff) she begins to describe them again, in spoken iambics. She first speaks, in language now much easier to interpret, of the adultery of Agamemnon's mother Aërope, the wife of Atreus, with Atreus' brother Thyestes (1192–3). Then she asks "Am I in error, or have I … scored a hit? Or am I a lying prophet … a worthless blabberer?" and continues, according to the manuscripts:

> Testify, on your oath, that I know these crimes of this house old in story[107] (1196–7)

To which the chorus reply:

> And how could the confirmation of an oath, legitimately taken, be a remedy for them? I marvel at you, that having been bred beyond the seas you can talk so accurately about a foreign-speaking city, as if you had been on the spot (1198–1201)

This is very odd. The chorus clearly accept that Cassandra does know about these old crimes; why then do they evade taking the oath she requests? And why *does* she request an oath, anyway? She wants them to recognize that she is telling the truth about something they know, so as to add credibility to what she will say later about things that they don't know and will find hard to believe; why should she make it more difficult for them to recognize her veracity, by demanding that they do so on oath?[108] Good sense is restored by the emendation of a Renaissance scholar who replaced *to m' eidenai* ("that I know") by *to mē eidenai* (which will here mean "that you do not know"), in which case Cassandra is challenging the chorus to

> testify, on your oath, that you have not heard tell of, and do not know about, these old crimes of this house –

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107 The clause could also, out of context, be taken to mean "that I have heard tell of, and know, these old crimes of this house", but that would make even less sense: Cassandra is trying to establish that she is a true *prophet*, and has no interest in getting the chorus to agree that she knows about past Argive history by *hearsay*.

108 See Fraenkel 1950, iii 549: "it cannot often happen (outside the peculiar world of commentaries on the classics) that a person is adjured to testify not to his own knowledge (or lack of knowledge) but to that of the person who desires his testimony … Cassandra so frames her challenge to the old men … that if they accepted it they would have to commit an act of perjury" – though Fraenkel wrongly denies any allusion to *exōmosia*.

to which they reply, as they must, that they cannot so testify – meaning that they *have* heard tell of Thyestes' adultery and *do* know about it. This also gives full value to the precise verb form used by Cassandra, *ekmarturēson*, literally "testify out"; the process which at Athens was called *exōmosia* was known in some other jurisdictions as *ekmarturia*.[109] Cassandra, in effect, is calling the members of the chorus as witnesses to the story of Thyestes' adultery, and challenging them, if they can, to deny on oath that they know the story to be true. This appears to be exactly what Athenian litigants did to witnesses who refused to give the testimony they desired.

About a dozen times in the orators, a litigant calls a witness or witnesses for whom he has prepared a deposition[110] which he knows, or suspects, that the witness will not be willing to confirm, or when he refers to past or hypothetical occasions when this happened or might have happened.[111] These passages make it clear that the reluctant witness had the choice of either "swearing himself out" (verb, *exomnusthai*; noun, *exōmosia*) or having himself formally "summoned" (*klēteuein, ekklēteuein*) and incurring a fine of 1000 drachmae.[112] If he took the former course, and probably also (though we have no actual instance) if he took the latter, he was then free to testify for the other side, if they and he so wished.[113] The oath of *exōmosia* contained some reference to the witness "not knowing";[114] the witness taking it had to lay his hand on a piece cut from a sacrificial animal.[115]

We are always given the impression that the challenge is being issued to the witness for the first time, but as Thür has pointed out[116] this cannot

109 *IEphes.* 1678B:1–5 (late sixth century).

110 All the surviving references come from the period when witness statements were prepared in advance and read out in court by the clerk, the witness merely confirming them; the earliest, Isaeus 9, probably belongs to the 360s. We do not know how the procedure, or its equivalent, functioned in the days when witnesses gave their evidence orally, but the *Agamemnon* passage shows that *some* equivalent procedure must have existed in the fifth century.

111 Isaeus 9.16–19; Dem. 19.176, 29.15–18, 29.20–21, 45.58–61, 49.15–21, 57.59, 58.7, 58.34–35 (?), 59.26–28; Aeschines 1.45–50, 1.67–69; Lyc. *Leocr.* 20.

112 Apparently in "public" cases only (Rubinstein 2005, 109–11). In "private" cases the litigant seems to have had the option of suing the recalcitrant witness for *lipomarturion* ("failure to testify") or (if he lost the case) for *blabē* ("damage") ([Dem.] 49.18–20).

113 Isaeus 9.19, 24–25; Aeschines 1.69.

114 Isaeus 9.19; Dem. 57.59; Pl. *Laws* 936e; Σ Dem. 19.176; Poll. 8.37, 8.55; *AB* i 188.26–27; *Suda* ε1797.

115 Lyc. *Leocr.* 20.

116 e.g. Thür 2005, 157–9, 163, 167–9.

actually have been the case, since (in the period with which we are here concerned) all depositions had to be submitted at the preliminary hearing (*anakrisis* or arbitration, according to the type of case) and there sealed in a jar (*echinos*), and no new ones could be presented at the trial.[117] This view is confirmed by a statement in the *Athenaiōn Politeia* (55.5) that *exōmosiai* were sworn at the sacred stone[118] where the archons swore their oath of office and (significantly?) where arbitrators gave their decisions under oath, together with a passage of Demosthenes (54.26) where the speaker complains that his opponents dragged out the arbitration proceedings by (among other things) "taking our witnesses to the stone, one by one, and forcing them to swear". But the surviving in-court *exōmosia* challenges do show that a witness who had "sworn himself out" at the preliminary hearing was required to appear at the trial and confirm his stand (and that the same verb, *exomnusthai*, was used to denote this confirmation).

What exactly did the reluctant witness swear to? None of the oratorical sources ever makes this explicit, and the contemporary Plato (*Laws* 936e), even leaving aside the fact that he is creating a new law-code for an imaginary city, is almost equally vague:

> If someone wilfully refuses to testify, the person desiring his evidence may summon him; when summoned he must come to court. If he knows and wishes to testify, he shall testify; if he says he does not know, then on swearing by the three gods, Zeus, Apollo and Themis, that he does not know, he shall be released from the trial.

The grammarians are somewhat more forthcoming. Pollux in one passage (8.37) says the witness had to swear "that he did not know or was not present" – but still does not make it clear *what* the witness said he did not know; in another (8.55), however, he says that witnesses "swore themselves out" if they claimed "to know nothing of the matters for which they were called", and two later lexicographers broadly agree with this.[119]

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117 It was formerly thought that this rule applied only to "private" cases in which the preliminary hearing was before an arbitrator, but we now have an actual *echinos* lid whose inscription shows that it was used at an *anakrisis* (*Ath.Agora* xxviii E 1). In some types of prosecution, however, such as the *eisangelia*, there was neither an *anakrisis* nor an arbitration, and in one such trial witnesses are challenged to confirm a deposition or else swear the *exōmosia* "holding the sacrificial pieces" (Lyc. *Leocr.* 20); see Martin 2009, 172 n. 124, showing (against Rubinstein 2005, 108 n. 15) that this passage does not refute Thür's case.

118 Near the Stoa Basileios (cf. *Ath.Pol.* 7.1, Pollux 8.86).

119 *AB* i 188.26–27 ("when witnesses say by way of denial that 'we know nothing'") ; *Suda* ε1797 ("those who had promised to testify … if afterwards they did not wish to … used to swear that they knew nothing").

If this is right, then a witness presented with a deposition which he knew to be untrue could only either (i) confirm the deposition (thereby rendering himself liable to a lawsuit for giving false evidence), (ii) swear that he knew nothing about the matter (thereby rendering himself liable to divine punishment), or (iii) submit to a heavy fine.[120] This has seemed perfectly credible to those who believe that the prime role of the Athenian witness was to be "a supporting actor who was offering to share the risks faced by his principal".[121] But to put a false deposition to a witness, under conditions like this, is not to invite him to share a risk; it is to expose him to the *certainty* of one evil consequence or another, whether you yourself win your case or lose it. Such a system would render the administration of justice impossible; anybody who went to law would be running the risk that he, or any or all of his supporters, might be hauled up to the stand by his opponent and made to face this intolerable trilemma. It is a practical nonsense as well as a moral monstrosity, and the grammarians must be wrong.

A vital clue comes from an Arcadian legal inscription[122] which, paradoxically, has actually been cited (Todd 1990, 24 n.8) as evidence *supporting* the grammarians' statements about the content of the *exōmosia* oath. According to this law, a witness may be released from the duty of testifying if he swears "the customary oath that he does not know the testimony which he has been called to testify";[123] if he neither swears this oath[124] nor testifies, he must pay damages to "the injured party", presumably the person who called him. To Todd it is "clear beyond doubt … that [the witness's] alternatives are incomplete".

Quite the contrary, I would say. "The testimony which [the witness] has been called to testify" is a proposition, for example (to take an actual Athenian case)[125] "that Thudippus assaulted and injured Euthycrates". Therefore not to know this testimony is not to know that Thudippus assaulted and injured Euthycrates; which is compatible, of course, with complete ignorance of the matter, but is also compatible, for example,

120 Harrison 1971, 144–5, argues on the basis of Dem. 29.15–16 that the witness had also the option of suing the litigant who called him, by a suit for "damage" (*dikē blabēs*), for "having compelled [more accurately: tried to compel] him to give false testimony"; if so, we would expect such suits to be frequent, but in fact there is no evidence that this supposed option was ever actually used at all.

121 Todd 1993, 36.

122 *IG* v(2) 357.10–13 (Stymphalus, third century).

123 μὴ ἴσμεν τὰν μαρτυρίαν ἃν κέκληται μαρτυρεῖν.

124 The Greek word used is *apomnusi*, which properly means "*deny* on oath"; the same verb is used in reference to an Athenian *exōmosia* by Aeschines 1.67.

125 Isaeus 9.16–19.

with knowing that the person who assaulted Euthycrates, inflicting injuries that proved fatal, was someone other than Thudippus. That is the most straightforward interpretation of the wording of the inscription, which does not say "know nothing about …" or "not know whether … is true"; it does not put the witness in an impossible position, and it makes for a workable justice system. To "swear oneself out" of confirming a deposition is to state on oath *that one does not know the deposition to be true*.[126]

Returning to Athens, this interpretation of the *exōmosia* is also, as Carey (1995) has shown,[127] compatible with all the instances of the practice that we meet in the orators, and makes much better sense of some of them than the "know nothing of the matter" interpretation.

It is directly supported by at least one passage. Towards the end of his speech appealing against the decision of the Halimous deme assembly to strike him off the deme register (Dem. 57.59), Euxitheus alleges that his enemies, Eubulides and his associates, took bribes to admit two men of non-citizen birth as members of the deme; "and neither Eubulides nor those with him would be prepared to swear that they do not know this". Not "that they know nothing about this" nor "that they do not know whether this is true", but "that they do not know *this*", viz. that they had corruptly registered these two men.[128]

Another passage shows, furthermore, that to take the *exōmosia* could be considered tantamount to a *denial* of the truth of the deposition put to the witness. In the course of his account of the *diapsēphisis* in Halimous, Euxitheus says (Dem. 57.13) that when his own case was voted on, more than sixty votes were found to have been cast, although it was very late and no more than thirty demesmen were still present when the vote was taken. All of these, he implies, were party to the conspiracy against him:

> To show that I am telling the truth about this – that the vote was not taken when all were present, and that there were more votes cast than people voting – I will produce witnesses before you. It so happens that on this subject I have no witness here from among my friends or from among the other citizens, because the hour was so late and because I had not asked them to come, so I have to use

126 So Thür 2005, 157: "the witness … takes an oath that the statement devised by the litigant *and formulated as the witness's knowledge* is not true" [emphasis mine]. The stress laid on knowledge is doubtless due to the fact that the witness was anciently thought of as one who *knew* relevant facts and was prepared to tell the judges so; in the laws of Dracon and Solon, the word for "witness" was *idu(i)os* "knower" (Ael.Dion. ι4).

127 See also MacDowell 2000, 278, and Martin 2008, 57–62.

128 Eubulides and company are not called up to confirm or deny this allegation, nor is any witness called in support of it.

> the evidence of the very men who have wronged me. Accordingly I have written for them a statement which they will not be able to *deny* (57.14).

And apparently these witnesses do confirm the deposition. Doubtless it included only some of the assertions Euxitheus has just been making;[129] the very fact that he feels it necessary to say that they will be unable to deny it implies that the statement is less full and explicit than he would have liked it to be. But for our present purpose what matters is that he equates "swearing oneself out" of a deposition with denying it.[130]

Again, there are several occasions on which hostile or reluctant witnesses are invited to confirm depositions of whose truth or falsity it is obvious that they cannot possibly be ignorant; yet it is always considered a serious possibility that they will take the *exōmosia*, and sometimes it is clear that they actually do so.

(1) In Aeschines' prosecution speech against Timarchus, two of Timarchus' alleged ex-lovers, Misgolas and Hegesander, are called up and presented with depositions about their past relations with him (Aeschines 1.45–50, 67–69). Obviously, whatever others might speculate about these relations, Misgolas and Hegesander themselves, respectively, knew exactly what their nature was. It is not clear whether Misgolas actually took the *exōmosia*, but Hegesander certainly did (1.69); Aeschines of course treats this as perjury, but he still anticipates that Hegesander will appear as a witness on the other side and defend Timarchus' character (1.69, 71). How could Hegesander possibly do this with the least degree of credibility if he had just declared on oath that he *did not know* whether or not he had kept Timarchus as his catamite?

(2) Demosthenes' third speech against Aphobus (Dem. 29) is a defence of one Phanus whom Aphobus had accused of falsely testifying that Milyas, who according to Aphobus was Demosthenes' slave (and whom he had demanded Demosthenes surrender for interrogation under torture), was actually a free man and that Aphobus had acknowledged this in Phanus' presence. Demosthenes says (29.18–21) that at an arbitration hearing he had presented to Aphobus a deposition identical with Phanus'

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129 For other reasons it is in any case unlikely that all these assertions were true; see Hansen 2006, 30–31. But Hansen is wrong to say that the witnesses called on this occasion did in fact deny the statement. If they had done so, Euxitheus would at once have accused them of perjury (cf. Aeschines 1.69); nor would Demosthenes have allowed to remain in his published text the false prediction that the witnesses would be unable to deny the statement.

130 The passage also indicates that Euxitheus and Demosthenes were reasonably confident that even a hostile witness would not be prepared to swear to ignorance of a proposition which he in fact knew to be unambiguously true.

evidence, and that when the arbitrator ordered him either to confirm it or to "swear himself out" he very reluctantly confirmed it.

> And yet [says Demosthenes] if the man [Milyas] was really a slave, and if Aphobus had not previously admitted that he was free, what was he doing confirming the deposition, instead of swearing himself out and being rid of the matter?

Aphobus, who had been present when Demosthenes' father on his deathbed made his final dispositions (Dem. 28.15), could not plausibly have sworn that he did not know whether Demosthenes' father had or had not actually manumitted Milyas at that time, still less that he did not know whether he had himself previously admitted, before witnesses both friendly and hostile, this very important fact.

(3) In the course of a detailed account of Neaera's career as a *hetaira* in Corinth, Megara and Athens, Apollodorus states ([Dem.] 59.26–28) that she was hired in Corinth by Xenocleides the poet and Hipparchus the actor. Xenocleides cannot testify, because he has been convicted of evading military service (*astrateia*) – the prosecutor being Neaera's partner and now her co-defendant, Stephanus – and has lost his citizen rights. Apollodorus therefore calls Hipparchus, saying "I will compel him to testify or swear himself out according to the law, or else I will 'summon' him". Hipparchus cannot be supposed to have forgotten whether or not he had once enjoyed Neaera's professional services.

One passage has been taken[131] as evidence that where a deposition consisted of several statements, a witness could use the *exōmosia* to deny one or more of these statements rather than being limited to confirming or rejecting the whole deposition. In his first prosecution of Stephanus[132] (Dem. 45.58–61), Apollodorus complains that during his previous case against Phormion, out of which it had arisen, a crucial witness statement had gone missing from the jar (*echinos*) in which all depositions and other documents to be used in the trial were supposed to have been sealed by the arbitrator. He alleges that Stephanus had stolen it while his back was turned, and he proceeds to call as witnesses some of Stephanus' supporters who he says saw Stephanus do this. He has written for them a deposition in which they

> testify that they are friends and relatives of Phormion, and that they were present before the arbitrator Teisias, when he gave his decision in the arbitration between

131 Carey 1995, 117, adding, however, that this interpretation "is by no means certain".

132 Not the same Stephanus who was mentioned in the previous paragraph.

> Apollodorus and Phormion, and that they know that Stephanus stole the deposition which Apollodorus accuses him of having stolen.[133]

"Either testify, or swear yourselves out," says Apollodorus to the witnesses, and they do the latter; Apollodorus comments that "it was pretty obvious that they were going to do that". He then introduces evidence of a challenge he had issued to Stephanus to surrender a slave of his (who had presumably been with him at the arbitration hearing) for interrogation under torture; Stephanus, according to this deposition, had refused the challenge, saying "if you say I've done you wrong, then sue if you want to".

Here the deposition consists of three statements, the first two of which are undeniable, while the third – the only one that really matters – is controversial. There are three possibilities:

(1) Witnesses were allowed to separate the statements of which a deposition was composed, confirming some and "swearing themselves out" of others. This seems inconsistent with Apollodorus' hectoring demand that they do one thing or the other (cf. likewise Dem. 19.20), and is the least likely of the three options.

(2) Poll. 8.37 should be taken as asserting that a witness taking the *exōmosia* could say *either* "I was not present" *or* "I do not know". In this case they would say the latter ("I do not know that Stephanus stole the deposition …").

(3) Since a proposition consisting of two or more conjoined propositions is false if any one conjunct is false, a witness who believed that any of the conjuncts was, or might be, false could honestly deny knowledge of the truth of the entire proposition.

Whether we favour (2) or (3) will depend, in part, on what we take the wording of the oath to have been. If, as Carey suspects,[134] the witness had to repeat the full text of the deposition (prefacing it with "I do not know that …"), (3) might lead to dangerous ambiguity from the swearer's point of view: if he said "I do not know that *p* and *q* and *r*", did that mean "I do not know that *p*-and-*q*-and-*r* is true", or did it mean "I do not know that *p* is true, and I do not know that *q* is true, and I do not know that *r* is true" – and, more importantly for him, what would the gods take it to mean?

133 The ensuing discussion assumes, for the sake of argument, that this document is genuine; even if it is not, similar issues could easily have arisen in other cases that have not survived. On the authenticity or otherwise of documents in the speeches delivered by Apollodorus, see Trevett 1992, 180–192, though he does not discuss this particular document.

134 Carey 1995, 117–18.

On the other hand, (3) would be more palatable if the oath were simply, as apparently at Stymphalus, "I do not know that the deposition to which I have been called to testify is true". A fixed formula would also help to avoid errors either by the swearer or by the person administering the oath. It is likely, therefore, that the *exōmosia* oath was a simple, fixed denial that the swearer knew the deposition to be true, and could be taken whenever the deposition contained any statement to which the witness could not truthfully assent.[135]

In many cases, those who called reluctant witnesses – often known supporters of the other side – must have known, virtually for certain, that they would refuse to confirm the depositions drafted for them. Why then did they call the witnesses at all? They did not do so very often (only two speeches – Aeschines 1 and [Demosthenes] 58 – use the procedure more than once, and none more than twice)[136], but the device did give them certain advantages. They would be able to accuse the witness of perjury. If he was expected to testify later for the other side, they would have done something to discredit him in advance.[137] And in any case, they would have had the deposition read out; the jury would have heard the words "A, B and C testify that (say) they know that Stephanus stole a witness statement", even if they had also, immediately afterwards, heard A, B and C deny on oath that they knew the deposition to be true. Harrison (1971, 140 n.1) aptly compares "the modern trick of getting a witness to say something which is then ordered to be stricken from the record". What is more, whatever the precise form of the oath was, it seems certain that the witness was not permitted simply to deny the truth of the deposition; he could only deny that he *knew* it to be true, a much weaker statement. All in all, sparingly used, this could be quite a good ploy.

135 See Martin 2008, 62–67. If the witness *could* truthfully assent to the whole of the deposition, but for any reason did not want to, then indeed he would have no choice but to perjure himself or else pay 1000 drachmae; but that would be his own fault for being unwilling to testify the truth.

136 The serial challenges at the arbitration between Ariston and Conon (Dem. 54.26) are represented by Ariston as a mere delaying tactic, and he does not appear to anticipate that they will be repeated by the defence at the actual trial.

137 Accordingly, at the trial stage, it is normally the prosecutor, speaking first, who uses the procedure (Martin 2009, 172).

5.11 Oath-challenges

We have seen one survival of the early form of trial by oath-contest in the preliminary *antōmosiai* of the two parties (§5.5). Side by side with this, the ancient tradition also lived on in another form, that of the oath-challenge. In the preliminary stages of a private case,[138] and especially, it seems, at the arbitration hearing if there was one, either party could propose that he and/or some person or persons associated with him, or his opponent and/or some person or persons associated with him, or both, should swear a specified oath. This was a challenge (*prokl*ē*sis*) which the other party might accept or decline; it was comparable to the other (and more frequent) variety of challenge involving the offer of, or demand for, the surrender of one party's slave(s) to the other party for interrogation under torture – but in an oath-challenge, it would always be a free man or woman who was designated to take the oath. The challenge might, but need not, specify the place or manner in which the oath was to be taken, e.g. in a sanctuary (Isaeus 12.9) or over sacrifices ([Dem.] 59.60); and in one case (Dem. 33.13) we hear of the challengee being required to put down a deposit which would be forfeited if he failed to take the oath. About a dozen oath-challenges, two of them hypothetical, are referred to in surviving speeches.[139]

In almost half the surviving oath-challenges, the person who is to swear is a woman. This was probably the only way in which the evidence of a woman could directly affect the result of a lawsuit,[140] since it appears that women could not be witnesses.[141]

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138 There is no known instance of an oath-challenge in a public case.

139 Isaeus 12.9–11*; Dem. 29.26*, 29.33*, 29.50–54 + 57, 31.9 (hypothetical), 33.13–14, 39.2–4* (further details in 40.2, 40.10–11), 49.42 + 65, 52.15–17, 52.28–29 (hypothetical), 55.27 + 35*, 59.60–61. In the asterisked cases the proposed swearer, or one of the proposed swearers, was a woman. The list does not include offers or invitations to swear oaths made for the first time in the course of trial speeches; these were purely rhetorical ploys.

140 Foxhall 1996, 143–7.

141 Euxitheus' defence of his citizen status provides a striking example: he calls numerous relatives to testify to the citizen birth of his mother (Dem. 57.67–69) – but not his mother herself. Bonner & Smith 1930–8, ii 221–3, claim that women could be witnesses in homicide cases; but the only Athenian evidence they cite is [Dem.] 47.69–73 – where the speaker is advised not to bring a homicide prosecution precisely because he has no adult male witnesses! On the oath which the speaker's wife and child(ren) are envisaged in that passage (47.70, 73) as potentially taking, see §5.14.

It has long been disputed whether an oath-challenge could ever be "decisive" as the archaic oath-contests were, or whether its outcome had merely persuasive force, to be exploited rhetorically (especially by a litigant who had issued a challenge which was refused). Mirhady (1991, 80–81) has pointed to certain expressions in the discussion of oath-challenges in Aristotle's *Rhetoric* (1377a8–b11) as evidence that such challenges, at least if accepted and fulfilled, normally were thought of as decisive – as conclusive evidence, one might say, of the facts sworn to. Not all the expressions he cites are convincing proof of this claim, but one seems to be inescapably so. Aristotle is enumerating the plausible reasons one might give (i) for inviting or not inviting one's opponent to take an oath and (ii) for accepting or rejecting such an invitation if made. And one reason that can be given for making a challenge is

> that it is pious to refer the matter to the gods, and that your opponent need not look for other judges, because you are giving him the chance to be his own judge (1377a25–28).

The phrase "refer the matter to the gods" implies that they will give a decisive verdict by punishing a swearer if he has perjured himself. But the working of divine justice can notoriously be very slow, sometimes taking generations to manifest itself; the jury at a trial will only rarely be able to know by this means that a litigant is *guilty* of perjury, and they will never be able to know that he is *innocent*. Therefore the passage only makes sense if it is being assumed that the gods *alone* are being left to give a verdict and that the issue will not come before a jury at all.

An oath-challenge, however, will only have finally settled a dispute in this way if three conditions were fulfilled:

(1) The statement sworn to had to be of such a nature that, if believed, it rendered the opponent's position untenable. Contrast the oath offered to Plangon (Dem. 39.3–4 and 40.2, 10–11), to the effect that Boeotus and Pamphilus were the sons of Mantias – which was precisely the question at issue in the litigation – with Parmenon's challenge to Apaturius (Dem. 33.13–14) to swear an oath "about *some* of the accusations", which, if accepted and fulfilled, would have crippled only part of Parmenon's case as plaintiff.

(2) The written challenge itself[142] had to contain a stipulation that if the oath was duly taken the swearer's side would be deemed to have won

142 By the 360s, the date of our earliest references to the procedure, challenges seem always to have been delivered in writing; if made at an arbitration hearing, they were put in the evidence jar (*echinos*) which contained all the documents (including witness statements) that were going to be presented at the trial. No actual oath-

the case. A torture-challenge cited by its maker, Apollodorus ([Dem.] 59.124), gives an idea of the kind of terms that might be specified:[143]

> And if [the slaves] admit that these children are the offspring of Neaera,[144] then Neaera shall be sold according to the laws,[145] and the children shall be aliens; but if they do not admit that they are hers, but say that their mother was another woman of citizen status, I was willing to withdraw from the prosecution of Neaera and to pay compensation for any injury caused to the slaves by the torture.

(3) The challenge had to be accepted and fulfilled. It is possible, though no evidence positively proves it, that, in parallel with the double stipulation in torture-challenges like that quoted above, provision was also made for what would happen if the terms of the challenge were agreed to and the oath was then not taken (as happened in the case of Parmenon and Apaturius).

We know of only one case in which an oath-challenge was in fact accepted and fulfilled,[146] and it was a highly abnormal one (Dem. 39.2 and 40.10–11). Boeotus[147] was, or claimed to be, the legitimate son of Mantias and

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challenge texts survive, only quoted or paraphrased extracts in speeches, which may be extremely misleading.

143 Kapparis 1999, 431–4, argues that this document is a forgery; but he is prepared to accept that it may well be "modelled … on the standard format" of such challenge documents. Its genuineness had been defended by Carey 1992, 149–51, and Trevett 1992, 190–1, mainly on the ground that it "presents plausible details which could not have been derived from the text of the speech".

144 The manuscripts read "of Stephanus and Neaera", but elsewhere in the speech (esp. 38) Apollodorus' line is that at least three of the four children are not the offspring of Stephanus at all and in fact were born to Neaera before she came from Megara to Athens to live with him. And the challenge itself seems to imply this too, since it specially notes that two of the slaves to be interrogated had come with Neaera from Megara.

145 i.e. she is to suffer the same penalty as if she had been tried and convicted.

146 This cannot be simply ascribed to the fact, if it is a fact, that if a challenge was fulfilled there would be no trial. Speakers often refer to *previous* litigation involving themselves, their allies and/or their opponents, or otherwise relevant to the current case, and except for the case of Mantias and Plangon, no such dispute is ever said to have been halted by a fulfilled oath-challenge. It is much more likely that challenges were normally issued (as indeed that of Mantias was) with the expectation, and indeed the hope, that they would be rejected – and that their terms were carefully framed with this aim in view.

147 It will be convenient to give him this name, though eventually (in the case for which Dem. 39 was written) he successfully defended, against his half-brother Mantitheus, his right to bear the name Mantitheus too, and thereafter both called

Plangon, and after coming of age he sued Mantias, saying that Mantias was robbing him of his inheritance by denying his paternity. Mantias, who was reluctant to take the dispute to court (perhaps because his case was very weak)[148], came to a collusive deal with Plangon, cemented on her side by a solemn oath, on his side by a payment of thirty minae: he would challenge her, before the arbitrator, to swear that he was the father of Boeotus (and of his younger brother Pamphilus), she would refuse, her two brothers would then adopt the two young men, and all disputes would be considered to be settled. Mantias duly issued the challenge – whereupon Plangon went to the Delphinium (a sanctuary of Apollo) and swore the oath demanded. Thus, says Boeotus' half-brother Mantitheus, "my father was compelled by his own challenge to abide by the arbitrator's verdict" (Dem. 40.11): in other words, once the arbitrator had announced his now inevitable decision in favour of Boeotus, the terms of the challenge debarred Mantias from appealing against that decision and taking the case to trial.

But most of the challenges we hear about are challenges that were rejected, with the maker of the challenge seeking to exploit its rejection for rhetorical advantage. Demosthenes 55 is a defence speech for a client sued by Callicles over flood damage to his land. The speaker says (55.27) that he issued a challenge putting forward his mother as willing to swear to certain of the facts in dispute (it is not made clear precisely what facts) and inviting Callicles' mother to swear the contrary;[149] he has the challenge read *twice* to the jury, the second time at the very end of the speech (55.35) with the following preamble:

> Because we had done no wrong, we were ready … to swear the customary oath; for we regarded this as the strongest evidence that we could put before you, you who are also on oath.

The idea that statements made on oath, like statements made or maintained by slaves under torture, are a particularly powerful kind of evidence reappears in Demosthenes' defence of Phanus against Aphobus' charge of giving false evidence (Dem. 29). Demosthenes says (29.25–27) that he will "briefly prove" that Aphobus is lying:

> About this matter, members of the jury, I was willing to hand over to him, for interrogation under torture, the maidservants who remember that my father on

themselves "Mantitheus son of Mantias of Thoricus" (*IG* ii² 1622.435–6; cf. Dem. 40.18).

148 See Carey & Reid 1985, 162–3; MacDowell 2009, 66–69.

149 Of course in language dictated by the defendant, and doubtless so crafted as to make it impossible for the challenge to be accepted.

> his deathbed set [Milyas] free. And in addition my mother was willing to make oath [lit. "lay on a pledge"] on the heads of myself and my sister, her only children, for whose sake she chose to live as a widow, and say, with us standing beside her, that my father set that man free when he was dying, and that he was regarded in the household as a free man; and let none of you suppose that she would have been willing to swear that on our heads, if she did not know for certain that she would be swearing to the truth.

Witnesses are then called to establish "that I am telling the truth and that we were willing to do these things", after which Demosthenes continues:

> When we were making all these honest claims, and were willing to resort to the most powerful methods of proof about what was being testified, this man [Aphobus] evaded all these, and thinks he can persuade you to condemn my witness [Phanus] by making slanderous accusations against me relating to the previous case.

Here, it will be seen, Demosthenes has laid, if anything, somewhat more emphasis on the offer of an oath than on the offer of slaves for torture.

So much value was attached to oath-challenges that speakers sometimes invented fictitious ones out of whole cloth. This could not be done in relation to the actual case in which they were speaking, because any challenge they had made would have had to be put in writing and deposited in the evidence jar (*echinos*) well before the trial; but there was no such safeguard against falsehood when *past* cases were being discussed. In the late 370s Callippus sued the banker Pasion over a sum of money belonging to a deceased foreign merchant, Lycon of Heracleia, which Callippus claimed should have been handed over to him and not to Lycon's business partner Cephisiades. The case does not appear to have ever come to trial, and after Pasion's death in 370 Callippus brought suit again, this time against Pasion's son Apollodorus. There was a dispute over what had happened when the case against Pasion had been submitted to private arbitration ([Dem.] 52.15–17). According to witnesses called by Callippus, he had challenged Pasion to take an oath and Pasion had refused to swear. Apollodorus says this story is highly implausible: surely, if Pasion had really thus "refused to be his own judge", Lysitheides, the sole arbitrator and himself a relative of Callippus, would have condemned him at once? It will be noted that Apollodorus does not argue that a refusal to swear by Pasion would have doomed him in any case, only that it would have doomed him before this particular arbitrator.[150] At any rate, he produces witnesses who had been present at every one of the

150 Apollodorus does not mention here that Lysitheides was a good friend of Pasion (52.31), or that he himself had accepted Lysitheides as arbitrator when Callippus had sued him.

arbitration sessions, to testify that no such challenge had been made at any time.

In another case Apollodorus himself may have invented a fictitious challenge. In his prosecution of Stephanus and Neaera ([Dem.] 59.50–63) he mentions a certain Phrastor, to whom Stephanus had given "his" daughter Phano in marriage, and who later, coming to believe that Phano was not in fact Stephanus' daughter and was not of citizen birth, dismissed her from his house. At that time Phano was pregnant, and in due course bore a son; and later, when Phrastor fell dangerously ill and Phano nursed him, he agreed (fearing he would die childless) to adopt this son as his own. But when he tried to introduce the boy to his *genos* (clan), the Brytidae, its members refused to accept him. According to Apollodorus, Phrastor then sued the *genos*; before the arbitrator they challenged him to swear, over sacrificial victims, that he believed the boy to be his son by a citizen woman lawfully married, and he refused (59.60). There is cause for suspicion about this story. Phrastor must have been able to guess he would be faced with a challenge like this, because the *genos* was itself a religious society, based on kinship, and would require a similar oath for the admission of new members anyway (cf. §2.2). If the oath was one that he dared not swear, what chance had he of success in his action?[151] Moreover, we have the deposition which the *genos* members confirmed when called as witnesses,[152] and it makes no mention of the challenge or even of the lawsuit, only of Phrastor's attempt to introduce his son to the *genos* and its rejection. But even if Apollodorus did invent the lawsuit and the challenge, it is of considerable interest that he expected this would greatly enhance the impact of his story about Phano's son and the *genos*.

I end this section with two cases, one actual and one imaginary, in which an oath-challenge is used in an attempt to settle a dispute before litigation even gets started. In 362/1 Apollodorus was assigned the responsibility, and the expense, of being a ship-captain (trierarch) in the navy. He found himself still serving, and spending heavily, over three months beyond the end of his one-year term, since his successor, Polycles, persistently refused to come and take over his ship ([Dem.] 50.14–29). Eventually the *ekklēsia* passed a decree ordering all new trierarchs to sail out and take over their ships, and Polycles reluctantly sailed to Thasos.

151 Perhaps (so Kapparis 1999, 291) the *genos* checkmated him by including in the proposed oath some such words (not reported by Apollodorus) as "and not by Phano the daughter of Neaera".

152 The document is certainly genuine; two of the persons named, otherwise obscure men, are known from inscriptions.

Apollodorus came to him with many witnesses (members of his crew and local citizens) and asked him to take over forthwith and pay Apollodorus' expenses for the extra time served, for which he presented a detailed bill and "was willing to lay on a pledge for him", a common phrase for taking an oath (presumably to the honesty and accuracy of the bill) (50.30–31). Polycles' reply may be reasonably rendered as "I couldn't care less". For the time being the matter ended there, since at that moment a message came from the fleet commander ordering Apollodorus (not Polycles) to put to sea; two later confrontations with Polycles at Thasos, and a third at Tenedos, proved equally vain, and Apollodorus eventually returned home, still in command of his ship, five months and six days after the end of his term (50.1), and presently sued Polycles for his expenses during that period (he does not refer to any oath challenges being made during the actual litigation).

The other instance is in Aristophanes' *Clouds* (1214–58). A rich fellow-demesman of Strepsiades has lent him twelve minae to buy a horse for his son. The debt has not been paid, and the creditor has reluctantly decided to issue a summons. When he comes to serve it, accompanied by a witness, Strepsiades pretends not to know what he is talking about: "Horse? Listen to that! Me, who you all know loathes everything to do with horses!" (1225–6). The creditor reminds him that he had sworn he would pay (cf. S&T ch. 4), to which Strepsiades replies that that was before his son had learned "the invincible Argument" (i.e. forensic rhetoric) in Socrates' school; asked whether he is denying the debt, he answers "What benefit will I otherwise get from his training?"

The creditor then asks:

> And will you be prepared to swear to this denial for me, in the name of the gods, in whatever place I may require?[153] (1232–3)

and, asked which gods, specifies Zeus, Hermes and Poseidon.[154] In normal circumstances this was a challenge that could not lose, since the creditor knows perfectly well that he did make the loan, and no one would dare risk the anger of three powerful gods. But Strepsiades now believes that these gods either do not exist or have been overthrown, and he happily replies: "By Zeus, yes! I'd even pay an extra three obols for the privilege of swearing" (1234–5). He then treats the creditor with insolent contempt and eventually tells him to "skip off, fastish" (1253) – which the

153 He is no doubt intending to specify that the oath shall be taken in a sanctuary.

154 Zeus as the supreme god; Hermes as god of traders (*Empolaios*); Poseidon as god of horses.

creditor does, swearing (!) that he will start legal proceedings at the earliest possible moment.

5.12 The *antidosis*

A quite different type of challenge, which might have both oath-taking and litigation among its consequences, arose out of the Athenian system of "liturgies" or compulsory public services,[155] of which the most important were trierarchies (see above) and the financing of choral and theatrical performances at the City Dionysia and other festivals. Any person designated to perform a liturgy had the right to challenge another to choose between taking over the liturgy and exchanging all his property with the challenger. If the person challenged agreed to take on the liturgy, that was the end of the matter. Otherwise, a process was set in train which in theory would lead to an actual exchange of property; but if in the course of this process any irreconcilable dispute arose – and in practice, it would appear, this almost always occurred – either party could demand that the case go before a court, which had to decide which of the two men had the greater net assets, and that person would then perform the liturgy (see Gabrielsen 1987). An important early stage in the procedure was an exchange of inventories, prepared under oath: each party had to swear "I am giving a correct and honest inventory of my property, except for any property in silver mines which is exempt by law" (Dem. 42.18), and then, within three days (by modern reckoning, two), hand over the inventory (including a statement of debts that he owed or that were owed to him) to his opponent (42.1).

5.13 Arbitrators

There were two kinds of arbitration procedure in classical Athens, private arbitration (where the disputants themselves chose one or more persons, in such manner and on such terms as they saw fit, to propose a solution to their dispute) and public arbitration. In the fourth century, though not in the fifth, most private cases were automatically referred for a hearing before, and verdict by, a member of the panel of public arbitrators for the year, which consisted of all citizens (subject to certain exemptions) in the forty-second year after they had come of age (i.e. those who were fifty-

155 See Davies 1967; Davies 1981, 7–39; Hansen 1991, 110–12.

nine[156] at the start of their year of office); after the arbitrator had given his verdict, the loser had the right to demand a jury trial.[157] It would appear that public arbitrators, unlike jurors, took a separate oath for each case they heard; at any rate that is the natural interpretation of the only surviving reference to their oath (*Ath.Pol.* 55.5), which, speaking of the stone on which the nine archons take their oath of office, mentions that it is the same stone on which "the arbitrators swear before declaring their decisions". We are not told the terms of their oath, and it is not completely clear at what point in the arbitration process it was taken; one would suppose *a priori* that the proper time was at the outset, when the arbitrator first met the two disputants,[158] but the *Ath.Pol.*'s reference to "declaring their decisions" tends to suggest that the oath was taken immediately before the delivery of the verdict. It is, of course, possible that the arbitrator swore twice.

It is clear from several passages that in *private* arbitration the taking of an oath by the arbitrators was an optional matter. In one case (Isaeus 5.32), after the arbitrators had been appointed and the disputants had sworn to abide by their decision,[159] the arbitrators said that "if they could reconcile us without taking an oath, they would do so; otherwise they would themselves take an oath as we had, and would give the decision they considered just". After several hearings, however, they were split: those nominated by the speaker's side were willing "either with or without an oath" to declare the truth as they saw it, those nominated by the other side were not prepared to do so. In the guardianship dispute between Demosthenes and Aphobus, the latter, we are told, terminated the arbitration when the arbitrators told him that "if they were to give a verdict under oath, they would condemn his guardianship" (Dem. 29.58). Apollodorus in his defence speech against Callippus ([Dem.] 52.30–31) tries to give the impression that the law required private arbitration verdicts to be given on oath ("I adjured him to give his verdict on oath according to the laws"); the other two passages, however, show that he is misleading the jury. Most likely what the law said was that if a private arbitrator or arbitrators gave a verdict on oath, it was final and binding on

156 See Rhodes 1981, 497–8, 591–2.

157 *Ath.Pol.* 53.1–5.

158 So Rhodes 1981, 620.

159 This is the only literary reference we have to such an oath by the disputants, and the two arbitrators nominated by the speaker's opponents are criticized for insisting on it and then refusing to render any decision. A fourth-century inscription, however (*Ath.Agora* xix L4a.69–81), mentions an oath taken by both sides (seven men representing each side) in the arbitration of a dispute between two sections of the *genos* of the Salaminioi.

the parties and not subject to appeal to a jury-court.[160] This is supported by Demosthenes' account of the alleged behaviour of Aphobus (Dem. 29.58–59). When he learned that the arbitrators, if they gave a verdict under oath, would decide against him, Aphobus terminated the private arbitration and went to "the arbitrator chosen by lot" (i.e. the *public* arbitrator designated to hear the case); this arbitrator too found against him, but Aphobus was able to take the case to court – where he lost again.

In order to be binding, however, an arbitral oath had to be expressed in terms that made it clear that the arbitrators were acting as judges. This is evident from the story told in Isaeus 2.29–33. The speaker and his opponent submitted a dispute over the ownership of a piece of land to the arbitration of a group of men who, he says, were all friends of his opponent. The men chosen said that

> if we submitted the dispute to them for a decision in terms of justice, they were not prepared to arbitrate, because they had no wish to make enemies of either of us; but if we would let them decide what was in everyone's interests, they would act as arbitrators. So we submitted the matter to them on these terms, in order, as we thought, to put an end to it. They then swore to us at the altar of Aphrodite at Cephale to decide what was in our interests, and gave the decision that we should give up the property that he claimed and make a gift of it to him, because, they said, there was no other way out of the dispute, except by giving them a share of Menecles' property. They also laid down that in future we should treat each other well in word and deed, and they compelled both sides to swear at the altar that they would do so.

If the arbitrators had sworn to make a decision "in terms of justice", it would have been final and binding, and the loser would have been forced to accept it – and would have been embittered, not just because he was the loser, but also because he had been stigmatized as unjust. Accordingly, with the agreement of both parties, they swore instead to make a decision that was "in everyone's interests" with a view to ending the feud. But this meant that their verdict would necessarily be only advisory, unless they made it binding in a different way; and this they did by imposing *on the two parties* an oath which precluded, or ought to have precluded, either side from taking legal action against the other on this or any other matter.

Largely as a result of the law just discussed, we never hear, in any court speech, of a private arbitration verdict pronounced under an oath to decide "what was just". The nearest approach comes in the suit of Chrysippus against Phormion over a bottomry loan (Dem. 34.18–21). They had referred the dispute, on agreed terms, to the arbitration of a

160 The law about private arbitration found in the manuscripts at Dem. 21.94 is spurious; see MacDowell 1990, 317–8, and Canevaro 2013.

metic named Theodotus; but Theodotus refused to give a verdict and told the parties to go to court, because (says Chrysippus, or maybe his business partner),

> he did not want to decide against this man Phormion, because he was on friendly terms with him (as we later discovered), but he was also reluctant to acquit him, because he did not want to perjure himself.[161]

5.14 Homicide and the Areopagus

Prosecutions for homicide[162] and wounding, together with a few other offences such as damage to sacred olive-trees,[163] did not come before the ordinary jury-courts but before the ancient Council of the Areopagus (comprising all who had held one of the nine archonships) or a tribunal called the *Ephetai* ("Referees") consisting of fifty-one men probably selected by lot from members of the Areopagus Council aged fifty or over.[164] There are six surviving speeches composed for delivery before one or the other of these courts.[165]

Procedure before the Areopagus and the *Ephetai*[166] was unusual and archaic in various respects, and in none more so than in respect of oaths. It is paradoxical, therefore, that our six speeches contain no reference at all to an oath taken by the judges of these courts themselves. We know

161 This does not necessarily imply that Theodotus had already taken an oath; we have already seen private arbitrators delaying the taking of an oath until a late stage in their proceedings, in the hope that they might be able to propose a solution which would be accepted voluntarily by both sides and lead to a reconciliation.

162 Except for those mounted by the innovative procedures of *endeixis* (exemplified by Antiphon 5) and *apagōgē* (exemplified by Lys. 13, and discussed by Dem. 23.80).

163 Exemplified by Lys. 7.

164 See Harrison 1971, 39–42; Lanni 2006, 85–86.

165 Lys. 3 and 4 (wounding) and Lys. 7 (uprooting the stump of a sacred olive-tree) are for delivery before the Areopagus; so probably is Ant. 1 (intentional homicide), cf. Harris 2001/2006, 398–9. Ant. 6 (unintentional homicide; see Harris 2001/2006, 399–400) and Lys. 1 (where the defence plead that the killing was lawful) would have been heard by the *Ephetai*.

166 There is no detectable difference between the procedure before these two tribunals, except that the Areopagus Council was normally addressed as "Council" (*ō boulē*) and the *Ephetai* simply as "Gentlemen" (*ō andres*). Henceforth references to the Areopagus Council may be taken to include the *Ephetai* unless a contrary intention appears.

that there was an oath for members of the Areopagus Council: in Aeschylus' *Eumenides* this oath is almost the first thing that Athena mentions when she decides to found the council (483) and it is repeatedly referred to again (489, 621, 680, 710). Since the Areopagus *was* primarily and originally a council – a deliberative rather than a judicial body – it is likely that its members, like members of the Council of Five Hundred (see §3.3), were sworn in once for all when they joined; there may, however, have been an annual renewal, and in view of the great proliferation of oaths in trials held before them, it is not at all impossible that members took a special oath before each trial. We know only one thing about the wording of their oath: among other deities it invoked the *Semnai Theai*, the "Awesome Goddesses" who inhabited an underground sanctuary near the Areopagus.[167]

It is, however, remarkable that no speaker ever thinks it necessary or appropriate to *remind* the Areopagites, directly or indirectly, of the oath(s) they had taken. This contrasts strongly both with the practice of speakers before the ordinary jury-courts, and with the emphasis on the oath in *Eumenides*.[168] It may reflect the high regard in which the Areopagus Council was held in post-403 Athens: right from the first years of the restored democracy we find it being praised for its conduct while Athens was under siege in 405/4 (Lys. 12.69) and called "the most august and righteous of courts" ([Lys.] 6.14).[169] Even so, the orators' complete avoidance of the subject is surprising, and I suspect that a rule of etiquette was involved: it was probably known that Areopagites had a tendency to feel offended if pleaders speaking before them used language implying that they might be forgetful of their oaths.[170]

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167 Dein. 1.87, who says that these goddesses, after the trial of Orestes, "associated themselves with the truthfulness of [this tribunal] for the future". Aeschylus' *Eumenides* is, among other things, an aetiological account of the foundation of their cult.

168 This contrast is one of many indications that although Orestes' trial is presented as the charter-myth of the Areopagus Council, it is also designed to be seen as a charter-myth for "the whole Athenian justice system" (Sommerstein 2010a, 32).

169 Cf. later Dem. 23.65; Aeschines 1.92; Lyc. *Leocr.* 12. Probably the Areopagus Council had gained respect among democrats by its activities in 405/4 (whatever they were) and perhaps also (though we have no direct evidence of this) by showing resistance to the arbitrary rule of the Thirty.

170 Even in *Eumenides*, the speakers who remind the Areopagites of their oath are all gods. So, in a modern trial, an advocate will often remind a witness, during cross-examination, that (s)he is under oath, and may occasionally remind a jury that (for example) they are sworn to give a verdict according to the evidence and not base it on any extraneous consideration; but no advocate, except in the most

Speakers do, on the other hand, frequently refer to the oaths which they themselves, and their opponents, have taken. These were termed not *antōmosiai* but *diōmosiai*, and were taken standing on the cut pieces of three sacrificial animals,[171] the swearer calling down utter destruction on himself, his descendants and his house if his oath was false (Ant. 5.11, Dem. 23.67–68, [Dem.] 59.10); the prosecutor swore (in a normal homicide case) that the defendant "had killed", the defendant that he "had not killed".[172] The gods invoked included the *Semnai Theai* among others (Dein. 1.47). In addition, both parties had to swear, with the same solemnity, that they would make their accusation or defence only in relation to the killing itself[173] – and, as we have already seen (§5.7), this rule was observed more strictly in Areopagus trials than before ordinary courts; the prosecutor apparently had to swear that he had the legal right to bring the prosecution;[174] and at the end of the trial the winner of the case was required,

> while cutting the pieces of the sacrifice, to submit to an oath … that those of the judges who had cast their votes for him have voted truly and rightly, and that he himself has spoken no lie, and to pray that if his oath be false he and his house may suffer utter destruction, but that the judges may have many blessings.[175]

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extraordinary circumstances, would dare address such a reminder to the presiding judge.

171 A boar, a ram and a bull (Dem. 23.67).

172 Ant. 6.16, Lys. 10.11, [Dem.] 59.10. Presumably these formulae were modified when, as in Lys. 1, the issue was not whether the defendant had perpetrated a killing, but whether an admitted killing was lawful or not.

173 Ant. 5.11 and 90.

174 By kinship to the deceased or by being the owner of a slave victim ([Dem.] 47.72–73; see Phillips 2008, 120).

175 Aeschines 2.87. The last clause, which is unconditional, is evidently designed to clear the judges of any guilt for a false verdict. Aeschines associates this after-trial oath only with one of the five homicide courts, that at the Palladium, where the *Ephetai* judged cases of unintentional homicide, of "planning" a murder (in modern terms, attempted murder or conspiracy to murder: see Harris 2001/2006, 400–4), and of the killing of a metic or slave; but it is unlikely that the ceremony was held only at this court, since the religious concerns to which it answered were equally powerful in all forms of homicide. Perhaps Aeschines chooses to mention the Palladium because more actual trials were held there than in any of the other courts: those prosecuted at the Areopagus or the Delphinium, who would be liable to the death penalty if convicted, would be more likely to take the option of fleeing the country, either before the trial came on or (as they had a right to do) half-way through it, after the first of their two allowed defence speeches (Dem. 23.69, cf. Ant. 4.4).

But besides the oaths of the prosecutor and defendant, oaths were also required of witnesses. And not only did they have to swear, "touching the sacrificial victims" (Ant. 5.12), that their evidence was true; they also had to swear that they "knew well" that the defendant was guilty or was not guilty. It is obvious that this would exclude much potential evidence from the court's consideration – though it should be remembered that the parties could, and often did, refer to such evidence in their speeches even if they could not call witnesses. In our one surviving prosecution speech in a homicide case, Antiphon 1, not a single witness is called: no one, except the accused woman herself and possibly her dead confederate, knows whether or not she really did put a drug into the deceased man's drink, still less whether her intention in doing so was to kill him or, as the defence claim, to win back his love. Altogether, in the six speeches we have from Areopagus-type cases, witnesses are called on a total of six occasions; by contrast, in the single speech Antiphon 5 (defence against an *endeixis* for murder) witnesses are called nine times, and in Lysias 13 (prosecution for murder by *apagōgē*) seven times. Once we find a speaker apologizing because the oath requirement has prevented him from presenting testimony. In a defence speech on a charge of wounding (Lys. 4.3–4), the defendant, in support of his claim that he and his prosecutor (previously at variance) had been reconciled, asserts that when he had been a *chorēgos* in a dithyrambic contest at the City Dionysia, the prosecutor, who was one of the contest judges, had voted to give the prize to his chorus (though his vote in the end was not counted)[176], and continues:

> That what I have just said is true, Philinus and Diocles know; but they cannot testify without taking a solemn oath about the charge against which I am defending myself [i.e. swearing that they know he is not guilty of wounding], otherwise you would have learned clearly that it was us who nominated him as a judge and that it was thanks to us that he was sitting as one.

In addition, it is possible that other members of the prosecutor's or defendant's families, even women and children, might also under certain circumstances be asked or required to swear that they knew the defendant was, or was not, guilty. In Ant. 1.28 we hear that one of the accused woman's sons (who are conducting her defence, she herself being of course unable to speak in court) has sworn "on behalf of his mother" that he knew well she had not murdered her husband; and in [Dem.] 47.70 and 73 it is assumed that if the speaker were to bring a murder charge over the

176 In this and other choral competitions, ten judges were appointed (one from each tribe) and all cast votes, but normally only five of the votes were read and counted. See Marshall & van Willigenburg 2004.

death of his ex-nurse, he would cause his wife and child(ren)[177] to swear with full solemnity at the Palladium. In the latter case, however, it is possible that what is being envisaged is a form of oath-challenge;[178] on the other hand it is not at all improbable that when the defendant was a woman, *both* she *and* the man who spoke on her behalf would take the *diōmosia*.

Areopagus trials, as compared with those in the ordinary jury-courts, retained more remnants of the old idea that a trial was a contest of oaths; but the oaths of the *parties*, though exceptionally solemn, nevertheless constituted, as in other trials, only a preliminary move. The parties could only get to court by swearing to the truth of their respective claims, but once they were in court, the issue between them was decided, as in other courts, by argument and evidence. The requirement that *witnesses* swear to their knowledge of the truth or falsehood of the actual charge severely reduced the amount and range of evidence that could be directly presented; but whatever explanation we give for the origin of this requirement, its practical effect in the fifth and fourth centuries was that in Areopagus cases, forms of proof and persuasion *other* than (free male) witnesses carried a greater proportion of the weight than in ordinary trials.

After the middle of the fourth century, the activities of the Areopagus Council became increasingly extensive, and in 324 the investigation of the Harpalus affair was entrusted to them; it seems that those who appeared before the council during this investigation were required to take some version of the oath customary in Areopagus trials (Dein. 1.47).

5.15 *Nomothetai*

The reason for including in a chapter on "the judicial sphere" these panels for the scrutiny of new legislation is that they were composed, as we shall see, exclusively of those who had taken the oath to serve as jurors for the year.

The earliest Athenian *nomothetai* ("legislators") – or at least the earliest, after Dracon and Solon, to be given that title – were a special elective

177 In §70 he says "children", but there he is quoting the *exēgētai* (expounders of religious law); in §73, speaking in his own name, he says "my son". Probably the other child(ren) was/were so young that they could not reasonably be expected to take an oath under any circumstances.

178 Particularly appropriate in this case because the wife and children were the only free persons who were eyewitnesses of the assault from whose effects the ex-nurse died five days later.

panel created at the time of the restoration of democracy in 403 (Andoc. 1.82), probably for the purpose of drafting new laws;[179] nothing is mentioned about their taking an oath, though there is little doubt that they will have done so. Their proposals very probably included the laws by which all Athenian legislation was thenceforth governed, establishing a distinction between decrees (*psēphismata*) and laws (*nomoi*), laying it down that no decree could have superior validity to a law (Andoc. 1.87, cf. Dem. 23.87), and setting up a procedure (or procedures) for the making of new laws and the revision of existing ones. We do not need to examine here the details of this procedure (or these procedures), which are controversial;[180] only to note that the final decision on any proposal for a new or revised *nomos* was made by a large panel, chosen specially by lot for each occasion, and known, once again, as *nomothetai*.

We might have expected that each fresh panel of *nomothetai* would take an appropriate oath before sitting to consider legislative proposals, but a passage in Demosthenes' speech *Against Leptines* (delivered in 355) shows that this was not what was done.[181]

Demosthenes complains that a long-standing law (he ascribes it, impossibly, to Solon) regulating the legislative process has come to be ignored because "certain powerful politicians … have contrived to make it possible for themselves to legislate when and how they want". He then has this law read, and draws certain features of it to the jurors' special attention (20.93–94):

> You perceive, Athenians, how fine a method Solon ordains for the making of laws. In the first place it is done *before you, before those who have taken the oath*, where other matters too receive final validation;[182] secondly, it requires the repeal of contradictory laws, so that there is just one law about each matter, thus preventing ordinary folk from being thrown into confusion and made the prey of

179 Our text of Andocides includes what purports to be the text of a decree which refers to *two* boards of *nomothetai* appointed about this time, one chosen by the Council and one by "the demesmen" (Andoc. 1.83–84); but Canevaro & Harris 2012, 110–16 have argued cogently that this document is spurious, on the basis of anomalies in its drafting and of inconsistencies between its text and Andocides' description of it.

180 See MacDowell 1975; Rhodes 1985; Hansen 1985; Hansen 1991, 163–75; Atkinson 2003, esp. 21–28; Canevaro 2013.

181 I disregard two documents transmitted in the text of the slightly later speech *Against Timocrates* (Dem. 24.20–23 and 27), which Canevaro 2013 has shown to be spurious.

182 This most likely refers to the role of the courts in judging *graphai paranomōn*: when a decree was indicted as "illegal", its operation was suspended until the court had pronounced upon its validity.

> those who know all the laws by heart, and ensuring that everyone is able to learn and understand the same set of simple, clear principles of justice. And he also prescribed that proposals should be displayed in front of the statues of the eponymous heroes, and handed to the secretary, and that he should read them out at meetings of the *ekklēsia*, so that each of you could come to a legislative decision that was just and expedient after hearing the proposals repeatedly and reflecting on them at leisure. Of all these numerous, justly ordained provisions, this man [Leptines] has fulfilled *nothing*.

According to the law cited by Demosthenes, then, the *nomothetai* were (some of) "you … who have taken the oath", i.e. the jurors. And we have seen (§5.4) that the fourth-century dicastic oath contained clauses that could only have any application when the swearers were exercising their legislative, not their judicial functions. But Demosthenes is also saying that this law has come to be disregarded, not only by Leptines (who has "fulfilled *nothing*" of all its provisions) but by other "powerful politicians" in recent times. Does this mean that *nomothetai* were now being appointed from among all citizens (or maybe all citizens over the age of thirty) without regard to whether they had taken the dicastic oath? If it were safe to take such blanket expressions in the orators literally, we could indeed make that inference. But Demosthenes would then have a very powerful point to make against Leptines, particularly as those whom he is addressing have all themselves taken the dicastic oath; why then does he not make the point explicitly? Presumably because he cannot. Perhaps the decree providing for the appointment of *nomothetai* to consider Leptines' law specified how many were to be empanelled but did not say specifically that they were to be "from those who have sworn". That would be enough to make it technically true that Leptines had deviated from the wording of the law that Demosthenes cited; but the practical effect of such a deviation would be nil. If the law was still in force – if *nomothetai* always were, and always had been, chosen only from those who had sworn the dicastic oath – the officials concerned would follow the regular practice whether it was spelt out in the decree or not. If the law had been repealed, that would be another matter; but our passage is not in itself evidence of a repeal, there is no such evidence elsewhere, and Demosthenes' failure to say outright that the panel considering Leptines' law contained non-jurors is a strong indication that by the word "nothing" in 20.94 he is insinuating an accusation that he cannot remotely sustain. Rather, the fourth-century democracy retained consistently the principle established at the restoration of 403, that proposals for new laws should have to pass the scrutiny of a body of men who had sworn, *inter alia*, not to vote for tyranny or oligarchy, or assent to the overthrow of democracy – as the *ekklēsia* had done (under duress) in 411 and 404.

5.16 Judges of festival competitions

The judges (*kritai*) of dramatic and choral competitions at the City Dionysia and other festivals were not part of the Athenian judicial system, but they perhaps nevertheless fit better under this heading than under any other. In Aristophanes' *Ecclesiazusae* (1155–62) the leader of the chorus asks for a favourable vote from the judges (both "those who are intellectual" and "those who enjoy a laugh") and hopes that the play's chances of success will not suffer because, by the luck of the draw, it was performed first:

> You must … *not break your oath but always judge the choruses fairly,* and not behave in the same way as those wretched supertarts, who never have a place in their memory for any man but their latest one.

Similarly, in an earlier comedy by Pherecrates (fr. 102) the judges are warned

> *not to break their oath nor to judge unfairly* – or else, by the God of Friendship, Pherecrates will tell another story about you, one that's a lot more insulting than this one has been!

Evidently the essential phrase of the oath was something like "I will judge fairly" (*krinō dikaiōs*). Demosthenes, describing Meidias' campaign of corruption, violence and intimidation aimed at preventing Demosthenes' chorus from winning the City Dionysia dithyrambic competition in 348, speaks of him "standing beside the judges when they were taking the oath" (21.17), "corrupting the judges in advance" (21.18), "dictating an oath to them when they were swearing" (21.65). Meidias could hardly have expected the judges to repeat words that he, a private citizen, was dictating to them, when the chief archon,[183] as presiding officer of the festival, was simultaneously dictating the words of the real oath, so these passages tend to suggest that by 348 the judges did not themselves repeat the words of the oath. Rather, the archon first recited the oath and then asked each judge "Do you swear to this?" (cf. Ar. *Lys.* 237) to which he replied "I do swear"; and what Meidias did was to interject, at the end of the oath as recited by the archon, some such phrase as "except Demosthenes"[184] – so that when the judge said "I do swear", he would be swearing to judge all the choruses fairly except that of Demosthenes! Demosthenes' chorus did not in fact win; whether or not that was due to this action by Meidias (to which Demosthenes had already drawn special

183 Cf. Plut. *Cim.* 8.8.

184 Cf. *Hypothesis* ii 4 to Dem. 21.

attention at 21.5), or to any of his many other alleged interferences, is of course quite another matter.

6 *Sunōmosiai* (conspiracies) (*A.H. Sommerstein*)

Conspiracies must be as old as the human race – probably older, if we are to judge by recent research on chimpanzees.[1] Certainly the record of them in Greek texts is almost as old as Greek texts themselves. There are two notable conspiracies in the Homeric *Odyssey*, that by the suitors to ambush and murder Telemachus (4.657–674, 842–7) and that by Odysseus and Telemachus, later joined by Eumaeus and Philoetius (21.191–244), to kill the suitors; but neither of these is cemented with an oath. We need not doubt, however, that from early times conspirators, especially those plotting against a ruling power, often swore loyalty to each other: any member of such a conspiracy might be tempted to betray his comrades by material or other inducements, or pressured to do so by threats or even torture, and it was highly desirable to impose on them this powerful, religiously sanctioned obligation.

One man who was a member of such a faction, Alcaeus of Mytilene, has left us poetry that recalls its oaths and how a comrade broke them. He had plotted with Pittacus and others to overthrow the tyrant Melanchrus; Pittacus, however, instead of pursuing the partisan aims of his allies, tried to heal the divisions within the community, was elected sole ruler, and after enacting some much-admired legal reforms laid down his office peacefully at the end of his ten-year term.[2] Alcaeus and his friends, in exile, never forgave Pittacus, and in a memorable poem (fr. 129) he gives full vent to his hatred. He prays to Zeus, Hera (?) and Dionysus to "rescue us from these sufferings and from the wretchedness of exile", and asks that "the son of Hyrrhas" (Pittacus) be pursued by the avenging spirit

1 See de Waal 1998, for whom "entire passages of Machiavelli seem to be directly applicable to chimpanzee behaviour" (p.4), and de Waal 1986 on the murder of the alpha male Luit by the two males next below him in status (one of whom, four years later, in a manner that might have pleased a Greek tragedian, fled in panic, apparently in terror of himself suffering Luit's fate, and met his death by drowning: see de Waal 1998, 214).

2 For the history, see Hdt. 5.94.1–2, Arist. *Pol.* 1285a34–b1, Strabo 13.2.3, D.L. 1.74–75, Suda π1659.

(Erinys) of "those men" (perhaps men killed in a failed attempt to overthrow him?)

> because once we swore,
> cutting [the throat of a beast (?),]
> never [to betray (?)] any of our comrades,
>
> but either to lie clothed in earth
> after dying at the hands of men who then […]
> or else to slay them
> and rescue the people from their sufferings.
>
> But Potbelly did not talk
> to their hearts; he carelessly trampled
> the oaths underfoot, and devours
> our city …

And a papyrus fragment of commentary (fr. 306(g).8–11), speaks of another poem as "written against Pittacus regarding the oaths that were taken in …"

Later too we hear specifically about oaths in political conspiracies; there is repeated mention in Lysias of oaths taken by the anti-democratic conspirators in 404 (Lys. 12.43, 47, 77–78; 13.21), and Aristotle (1310a7–10) says that in some states in his time the oligarchic faction swear "I will be hostile to the *demos* and will plan what harm I can against them". So in Athens in 410 the oath prescribed by the decree of Demophantus (Andoc. 1.97–98)[3] included a release of "all oaths that have been sworn at Athens or in the camp or anywhere else in opposition to the Athenian *demos*".

If any student of Greek today is asked what was the classical Greek word for a conspiracy, the answer would undoubtedly be *sunōmosia*, literally "a swearing together". Yet there was nothing necessarily sinister about the act of swearing together (*sunomnunai*) as such. It was the ordinary word for joining in an oath of any kind taken by two or more people for any purpose; and the same could apply to its agent-noun *sunōmotēs*, which became the regular word for "conspirator". When those Greek states who had decided to resist Xerxes' invasion met for a conference, the first thing they did was give each other a *pistis*, evidently an oath (Hdt. 7.145.1); and three chapters later these states are referred to as "the *sunōmotai* among the Greeks". At the other end of the classical period, Lycurgus (*Leocr.* 126), referring to the decree and oath of Demophantus (see above), says that the Athenians "swore together (*sunōmosan*) to kill" anyone who was scheming to establish a tyranny,

3 On the authenticity of this decree as found in the text of Andocides, see pp. 74–5 n. 54 above.

betray the city,[4], or overthrow the democracy. In poetry, the verb can even refer to an oath (or, in Sophocles, a solemn but unsworn pledge; see S&T ch. 5) taken unilaterally by one person: Philoctetes, refusing Neoptolemus' plea to go with him to Troy, demands to be taken home "as you agreed to swear to me (*ha moi xunōmosas*)" (Soph. *Phil.* 1367).

But at the same time *sunomnunai*, *sunōmotēs*, and above all the abstract noun *sunōmosia*, were coming to bear, in most contexts, a sinister sense, that of an oath taken collectively for an illegitimate purpose or a group taking such an oath, the underlying assumption being that any collective oath taken by a group not recognized as legitimate by the community is likely to have been taken for a purpose injurious to the community. In our evidence this usage first appears in 458, in Aeschylus' *Oresteia*. We are told how Fire and the Sea, who had previously been deadly enemies, "swore together and exchanged pledges" to destroy the Greek fleet returning from Troy (*Ag.* 650–2), and how Clytaemestra and Aegisthus "swore together" to kill Agamemnon and to die together (*Cho.* 978–9); later the ghost of Clytaemestra, taunting her Furies with their failure or inability to hunt Orestes down, tells them that Sleep and Toil, "an appropriate pair of *sunōmotai*", have sapped their strength (*Eum.* 127–8).

But the great flourishing of *sunōmosia* language comes in the 420s, and it was probably the politician Cleon who made *sunōmosia* into a catchword of the day. In the comedies of Aristophanes words of this family occur thirteen times, and twelve of these occurrences are in the two plays – *Knights* and *Wasps* – which are dominated, on or off stage, by Cleon. In *Knights*, all the seven times that it occurs, the word drops from his own lips, or rather from those of the slave Paphlagon whom the author has carefully made sure in advance we will identify with him:

> By the Twelve Gods, you two won't get away with this long-standing *conspiracy* of yours against the people! (*Knights* 235–6)
>
> Venerable jurymen … come to my aid, for I am being beaten up by *conspirators*! (*Knights* 255–7)
>
> Help, help! The *conspirators* are beating me up! (*Knights* 451–2)
>
> I'll go this instant to the Council and tell them of the *conspiracies* that all of you have hatched, and about those nocturnal anti-state gatherings, and all that you are *plotting* (*xunomnute*) with the Medes and their King, and that business that's being cheesed up with the Boeotians. (*Knights* 475–9)

4 The "Andocidean" text of the decree does not mention betrayal; Lycurgus includes it (mentioning it four times) in order to make the decree seem relevant to the case he is prosecuting.

> He [Paphlagon] was inside [the Council chamber] … assailing the Knights with the most fantastic tales, piling up mountainous phrases and calling them *conspirators* in very persuasive fashion. (*Knights* 626–9)

> It was I by myself who put a stop to the *conspirators*; and no subversive ring can form in the city without my knowledge. (*Knights* 862–3)

In *Wasps* Cleon remains off stage, except for one scene (894–1007) in which he appears in the guise of a dog, and even then he does not use any *sunōmosia*-words; but his supporters – old Philocleon and his fellow-jurymen who form the chorus – certainly do:

> This man [Philocleon's son, Bdelycleon] would never have dared to speak so, had he not been some sort of *conspirator*. (*Wasps* 343–5)

> You're not getting hurt now, but wait till a prosecutor empties this same stuff over you in court and calls you a *conspirator*! (*Wasps* 482–3)

> *Bdelycleon:* He [Labes[5]] is brave, and he chases away the wolves.

> *Philocleon:* No, he's a thief and a *conspirator*, he is. (*Wasps* 952–3)

And this provokes Bdelycleon to protest:

> How you people make everything into "tyranny" and "*conspirators*", if anyone makes a criticism of anything big or little! … These people must *enjoy* hearing these words, if this time too, just because I want my father to abandon [serving on juries] and live a classy life … I get accused of doing it because I'm a *conspirator* and have tyrannical ambitions. (*Wasps* 488–9, 503–7)

Cleon was killed a few months after the production of *Wasps*, and in the whole comic corpus we only hear of *sunōmosia* once again. This is in *Lysistrata*, when Athenian and Spartan men discuss the sexual boycotts being carried on by their wives and realize that "this thing is a conspiracy … by all the women everywhere" (*Lys.* 1007–8); and indeed it is – we heard the women swear their common oath (*Lys.* 209–37) – though eventually the men will accept that it was done for a good purpose (peace).

It seems likely, therefore, that Cleon frequently alleged that those who opposed him politically were involved in a sworn conspiracy or conspiracies whose objectives included the overthrow of democracy, the establishment of one-man rule ("tyranny"), and treasonable intrigues with foreign powers or disaffected subject states.[6] But in this he does not seem to have found many imitators. As we have seen, the language of *sunōmosia* is not associated with any other political figure in comedy, nor is it found

5 The dog whom Cleon ("the Dog of Cydathenaeum") is prosecuting.

6 For this charge see *Knights* 237–8, 278–9, 477–9; *Wasps* 288, 475.

in surviving political oratory – unless one counts the pseudo-speech *Against Alcibiades*, in which the speaker, represented as a political leader in danger of ostracism, complains that in ostracisms "those who have *hetairoi* and *sunōmotai*" (i.e. who are members of political clubs – see below) have an advantage over others ([Andoc.] 4.4).

Apart from Aristophanes' portrayals of Cleon and his followers, only a very few classical authors use the language of *sunōmosia* freely. The most notable of these is Thucydides, a contemporary of Cleon in public life (they were on the board of generals together in 424/3). There is a very marked contrast between the use of *sunōmosia*-language by Thucydides and by his older contemporary Herodotus. There is no shortage of conspiracies in Herodotus' history, but he never once uses *sunōmosia*-language in reference to them (nor in the next century does Xenophon); Thucydides does so eleven times. He does not, however, put these words into the mouth of Cleon; in fact they appear only in the second half of his history, in relation to the scandals and suspicions of 415 (book 6) and later to the plots and counterplots before and after the oligarchic coup of 411 (book 8).

In book 6 the "conspiracies" of which Thucydides speaks exist largely, if not entirely, in the imagination of the Athenian public, who suppose that the mutilation of the Hermae is the work of a conspiracy aiming at "revolution and the overthrow of democracy" (6.27.3) and later, when they learn also about mock celebrations of the Eleusinian Mysteries, of which Alcibiades among others is accused, believe that both crimes alike testify to the existence of an "oligarchic and tyrannical conspiracy" (6.60.1, cf. 6.61.1). This is the sort of language that Cleon would have used, had he been alive at the time. Thucydides ascribes these beliefs and suspicions to Athenian folk-memory of the Peisistratid tyranny and, much less plausibly, to their awareness that it had been ended "not by themselves and Harmodius but by the Spartans" (6.53.3). Such an awareness is singularly absent from Athenian oratory and from most Athenian popular poetry,[7] but mention of it enables Thucydides to write an excursus on the assassination of Hipparchus in which he twice refers to Harmodius, Aristogeiton, and their confederates as a *sunōmosia* (6.56.3, 6.57.2) – in this case, of course, a real one.

It is richly ironic that the Athenian public, so ardent in defending democracy against imaginary conspiratorial threats in 415, is completely fooled, and in part intimidated, by an all too real conspiracy into itself abrogating that democracy in 411. Thucydides' account of these events is full of *sunōmosiai*. The first is the grouping formed in the fleet at Samos

7 With the exception of Ar. *Lys.* 1150–6.

with the objectives of overthrowing the democracy, recalling Alcibiades from exile and securing Persian assistance in the war (8.48.2, 8.49.1). When Peisander and other members of this group come to Athens, they enlist the support of "the *sunōmosiai* that already existed for <mutual support in> lawsuits and <elections to> public offices" (8.54.4);[8] these are what are referred to in other sources as *hetaireiai* (e.g. Lys. 12.55, *Ath.Pol.* 34.3), and previously each such group within the Athenian élite had promoted its own members' interests in the competition of democratic politics, but now Peisander persuaded them to combine and work together for the overthrow of democracy. At the moment when this is being achieved (8.69.2) those involved are spoken of as "those in the *sunōmosia*".

A turning point came when an attempt to establish an oligarchy in the state of Samos itself was defeated by democrats on the island and in the Athenian fleet. The Samian oligarchs who make the attempt are said to have become *sunōmotai* with Peisander and the oligarchic faction among the Athenians at Samos (8.73.2), and to prove their loyalty to the cause they begin by assassinating the ostracized Athenian demagogue Hyperbolus. The Athenian democrats at Samos, under the leadership of Thrasybulus, soon afterwards vote to recall Alcibiades, and in his first speech at Samos he massively exaggerates his influence with the satrap Tissaphernes "in order that [among other things] fear might be struck into those in charge of the oligarchy at home and the *sunōmosiai* would be more likely to be disrupted" (8.81.2). *Sunōmosiai* at Athens, in the plural, will certainly be those mentioned at 8.54.4. Thucydides' language could refer to the disruption of cooperation either *between* these groups or *within* them, but the former is more probable – these *hetaireiai* had until very recently been rivals rather than allies, and nothing would be more likely to weaken the oligarchic faction than a revival of dissension among them; indeed such dissensions arose as soon as the situation at Samos, and Alcibiades' position, became known at Athens (8.89.1–3).

In the fourth century *sunōmosia* and related words remain part of the Greek political vocabulary, but they appear only occasionally in our texts. In Plato they occur just three times. Socrates in court, after his conviction, provocatively arguing that he deserves reward rather than punishment, says that he has consistently pursued his ethical mission and avoided business and politics – except that his way of saying "politics" is "generalships, public speeches, any kind of office-holding, and the *sunōmosiai* and factions that arise in the city" (*Apol.* 36b) – the latter much

8 See on this passage Hornblower 2008, 916–20, who gives references to earlier discussions.

in the minds of everyone in court, partly because of recent history (five or six regime changes in the previous twelve years) and partly because of the past association with Socrates of such men as Alcibiades and Critias (cf. Xen. *Mem.* 1.2.12, 24). The word appears again in the sense of, and indeed in combination with, *hetair(e)ia* in book 2 of the *Republic* (365d). Adeimantus, playing devil's advocate as he and his brother challenge Socrates to produce a convincing argument that it is better (more advantageous) to be just than unjust, says that those who wish to "be wicked and escape detection" will form *sunōmosiai* and *hetairiai* and study with teachers of rhetoric in order to avoid paying a penalty for any crimes they commit. The two ideas are associated yet again in Plato's *Seventh Letter* (351a-b), where he speaks of his friend, the murdered Syracusan politician Dion, in these terms:

> Dion had the same wish that I would say I myself and any other reasonable man ought to have … . And that is not for a man to acquire wealth for himself and his *hetairoi* and his city, plotting against others and assembling *sunōmotai*, being a poor man and not in control of himself, overcome by a cowardly attitude to pleasure, putting men of property to death on the ground that they are "enemies", plundering their assets and inviting his accomplices and *hetairoi* to do likewise so that none of them will complain that he has left them poor …

Thus from Alcaeus to Plato, the most common connotation of *sunōmosia*, when used in a sinister sense, was a political one: a sworn group compact to advance the interests of the participants, and usually to gain for them power in the state and its material rewards. Occasionally in the fourth century it is used of similar compacts aimed at gaining advantages in private quarrels. It appears in this sense three times in the Demosthenic speech *Against Macartatus* (Dem. 43), an episode in the long-running tale (known also from Isaeus 11) of the inheritance that had once belonged to Hagnias of Oeum. The speaker, Sositheus, putting forward the claim of his young son to be heir to this estate, alleges that

> when the mother of this boy was in possession of the estate, after defeating all the rival claimants in court,[9] these men … trying in every possible way to take back from the woman the inheritance which you had voted she should have, *swore together* and made a written agreement with each other and deposited it with Medeius of Hagnous – Theopompus, the father of my opponent Macartatus, and Glaucon, and Glaucus who had been defeated in the previous trial, and they brought in another member of the family as a fourth man (his name was Eupolemus) – and they all schemed together and summoned the woman before the archon for a *diadikasia* regarding the estate of Hagnias … (Dem. 43.6–7)

9 This does not, of course, mean that she spoke herself; her husband Sositheus will have spoken on her behalf, just as he is now speaking on behalf of their son.

– the alleged agreement evidently being that they would *all* put forward claims to the estate, thus ensuring that they would have between them four times as much speaking time as Sositheus would have to present the case of his wife Phylomache, and thus make it likely that the estate would go to one or another of them. Hardly a very plausible conspiracy, one might think, since the jury's votes would also be divided,[10] and in fact the winner of the *diadikasia*, Theopompus, gained only "three or four" votes more than Phylomache. It is suspicious, moreover, that in Isaeus 11, where Theopompus is the speaker and is not arguing directly against Sositheus and Phylomache,[11] he says (Isaeus 11.16–19) that there were only three claimants in the *diadikasia* – himself, Phylomache, and Hagnias' mother. Probably Glaucon, Glaucus and Eupolemus all spoke on behalf of Hagnias' mother; the first two were her sons by a second husband, and Eupolemus may have been her third husband or another relative. If so, Sositheus will not have had one-fifth of the total speaking time, as he alleges, but one-third.

When he speaks again of Phylomache's success in the earlier trial, Sositheus says that she won

> not by means of any improper scheming or *sunōmosia*, but in the fullest possible accordance with justice, because we had proved that she was nearest of kin to Hagnias … being the daughter of his cousin on the paternal side and a member of the *oikos* of Hagnias (Dem. 43.32)

and a little later, in the middle of a series of witness statements about the relevant family relationships, he refers again (43.38) to the time when "these men swore together with each other and united … to oppose my wife", and says that on that occasion they had ambushed him by alleging, apparently for the first time, that a crucial link in Phylomache's claim to be next of kin to Hagnias was false (because her grandmother, also named Phylomache, had not been the sister of Hagnias' father Polemon). He thus persistently contrasts Phylomache's winning of the estate by fair argument with the allegedly collusive, conspiratorial scheme by which she lost it.

Only one other fourth-century lawcourt speaker (that we know of) uses the term. This is Euxitheus, appealing against his deme's decision to strike him from its citizen register (Dem. 57.63–65). He alleges that the

10 To be sure, the "conspirators" might have agreed that all but one of them would deliberately present weak arguments, in effect throwing the inheritance to Theopompus; but Sositheus makes no such allegation, saying merely that the jurors were confused and voted randomly (Dem. 43.10).

11 He is defending his right to the whole estate, after winning the *diadikasia*, against his nephew (and ward), the son of his deceased brother Stratocles, on whose behalf a claim is being made for half of it.

demarch Eubulides and his associates, having grudges against him because when he himself had been demarch he had rigorously exacted from them money which they owed to the deme, have now ganged up (*sunestēsan*) against him, and as proof of this he says that

> they deleted from the oath [taken by the demesmen] the phrases "vote by the justest opinion" and "not from favour nor from enmity".[12] That action was plainly theirs, and it was also plain that after stealing from the sanctuary … the armour which I had dedicated to Athena, and after erasing the decree that the demesmen had voted in my honour, these men, from whom I had exacted money due to the deme, *were conspiring (sunōmnuon)* against me. … [And] no sooner had the misfortune [of being struck off] befallen me, than straight away, as if I were already ruined and in exile, some of them went to my little place in the country at night and tried to plunder its contents – so much contempt did they have for you and the laws.

We may in this passage be observing the fraying, or even breaking, of the link between the verb *sunomnunai* (with its derivatives) and the actual swearing of oaths. The verb is in the imperfect tense, denoting a continuous or repeated action. But the swearing of an oath, conspiratorial or otherwise, is not a continuous action; and while some kinds of oaths did have to be taken repeatedly, the parties to a conspiracy would certainly want each other's oaths to be permanently binding with no need for renewal. What is more, if Eubulides and company were going to swear oaths as part of their alleged conspiracy against Euxitheus, we would expect them to have done so *before* committing acts of such gravity and danger as stealing a dedication from a sanctuary or tampering with a public record. Probably therefore *sunomnunai* is already migrating towards the less specific sense of making an agreement for a nefarious purpose or taking action in pursuance of such an agreement, with no necessary implication that the agreement was cemented by an oath. The same may be true of the imaginary illustration offered by Aristotle (*Rhet.* 1400a18) of the rhetorical trope of presenting a specific fact that contradicts a general assertion made by the opponent: "he says that he loves you [sc. the people], but he conspired (*sunōmose*) with the Thirty". This *might* mean that the opponent had sworn some oath of loyalty to the Thirty, but it is just as likely that it merely means that he supported and assisted them – and even more likely, perhaps, that Aristotle neither knows nor cares precisely what the imaginary speaker would mean by this imaginary statement.

12 On these expressions see §5.4.

7 (Re)uniting the citizen body

As we shall see in connection with interstate relations (ch.10), one of the most important occasions for the taking of oaths was when two or more parties who had quarrelled wished to effect a durable reconciliation; similarly when disputants went to private arbitration, the arbitrator(s) might make them swear to abide by the verdict or to treat each other well in future (§5.13).[1] The same considerations would apply when the quarrelling parties had been factions at strife within a *polis*, as happened all too often in archaic and classical Greece. Our earliest reference to such an oath comes in the last scene of the *Odyssey*. Odysseus has killed Penelope's 108 suitors, and their kinsmen, constituting most of the aristocracy of Ithaca, have vowed revenge and are marching on the country estate of Odysseus' father Laertes where Odysseus and his son have gone. As they are on their way, Athene asks Zeus what his intentions are: continuing war, or friendship between the two sides? Zeus replies:

> My child, why do you ask me this? Was it not your intention that Odysseus should surely come and pay those men out? Do as you wish, but I will tell you what is fitting. Since Odysseus has paid out the suitors, let them cut trusty oaths, let him be king in perpetuity, and let us make a forgetting [amnesty?[2]] for the killing of their sons and brothers; and let them love each other as formerly, and let there be peace and wealth in plenty. (*Odyssey* 24.478–86)

Athene hastens down to earth, but she is not minded to make the peace immediately. Instead she allows battle to be joined; the leader of the suitors' kinsmen, Eupeithes, is killed, his followers are put to flight, and it takes two commands by Athene, and a warning thunderbolt from Zeus, to bring the violence to an end. "And afterwards," we are told,

> Pallas Athene, daughter of aegis-wearing Zeus, in the likeness of [Odysseus' friend] Mentor both in form and in voice, made oaths between the two sides (24.546–8)

– presumably in the terms already specified by Zeus. We shall meet again the themes of amnesty for past wrongs, and of friendship for the future.

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1 See also S&T ch. 4, on reconciliations following business disputes.

2 "Amnesty" means, literally, "non-remembering".

According to the Xenophontic Socrates (Xen. *Mem.* 4.4.16), it was the custom (or law) "everywhere in Greece" for the citizens of a state to swear "to be of one mind" (*homonoësein*). It is possible that this refers to regular civic oaths such as those discussed in ch.2 above, but it would be surprising for Xenophon to make Socrates assert this when the civic oath of their own city (§2.3) made no reference to this concept. More likely they are thinking of oaths that might be taken when a citizen body was being reunited – as in the *Odyssey* passage – after a period of civil strife. The antithesis between civil strife and *homonoia* is eloquently expressed in a choral song in Aeschylus' *Eumenides* (976–87):

> I pray that civil strife (*stasis*),
> insatiate of evil,
> may never rage in this city,
> and may the dust not drink up the dark blood of the citizens
> and then, out of lust for revenge,
> eagerly welcome the city's ruin
> through retaliatory murder;
> rather may they give happiness in return for happiness,
> resolved to be *united in their friendship*
> *and unanimous in their enmity*;
> for this is a cure for many ills among men.

We have a good deal of evidence about oaths of reconciliation from the fifth and fourth centuries, above all from Athens.

Twice in the last years of the fifth century Athens was subject to oligarchic regimes, and twice democracy was restored. At the first restoration, in 410, a decree was passed (Andoc. 1.96–98), on the motion of Demophantus,[3] requiring all Athenian citizens, before the next City Dionysia,[4] to swear an oath. Neither the decree nor the oath made any concession to the defeated oligarchs,[5] and indeed many of these, then or later, were prosecuted and punished, often by loss of their citizen rights.[6] Both were designed simply to provide safeguards and deterrents against

3 On the authenticity of this decree, see pp. 74–5 n. 54 above.

4 This probably means "*just* before"; see Shear 2007, 153–8; Shear 2011, 136. The Dionysia in question would be the festival of 409, when, significantly, honours were proclaimed for the assassins of Phrynichus, one of the leaders of the Four Hundred (*IG* i^3 102 = ML 85); see Shear 2011, 135–65.

5 Unless it is regarded as a concession that the decree was backdated only to the installation of the Council of 410/09, and therefore did not legalize the summary killing of those who had been involved in the undemocratic regimes of 411–410.

6 Cf. Ar. *Frogs* 687–702; Andoc. 1.73–76, 80 (but the purported decree of 405/4 at 1.77–79 is spurious, see Canevaro & Harris 2012, 100–10); Lys. 25.25–27; Xen. *Hell.* 2.2.11.

any future attempt to install a non-democratic regime. The decree provided that anyone making such an attempt, or holding any office under a usurping regime if it did come into existence, was to be "an enemy of the Athenians" and could be summarily killed with impunity; and the oath began with a promise to do just that:

> I will kill by word and by deed and by vote and by my own hand, if I am able, anyone who overthrows the democracy at Athens or who in future holds any office when the democracy has been overthrown, or who rises up to become a tyrant or who joins in setting up a tyrant. And if anyone else kills such a person, I will hold him free of guilt before all gods and spirits, as having killed an enemy of the Athenians, and I will sell the possessions of the deceased and pay half the proceeds to his killer and not withhold anything. And if anyone meets his death while killing or attempting to kill such a person, I will do good to him and his children, in the same way as is done for Harmodius and Aristogeiton and their descendants. And all oaths that have been sworn, at Athens or in the camp or anywhere else, in opposition to the Athenian people, I dissolve and release.[7]

Very different were the oaths that were sworn when democracy was restored in 403, after the far more traumatic experience of the rule of the Thirty. A law passed at that time (Andoc. 1.87, cf. Aeschines 1.39) stipulated that (with certain exceptions, see below) the laws were to be applied "as from the archonship of Eucleides" (the current year, 403/2), meaning that no one could be prosecuted for an offence committed before that date; and a series of oaths (Andoc. 1.90–91; *Ath.Pol.* 39.6) were imposed in an attempt to guarantee that this law would be observed.[8] One oath was to be sworn by all citizens (we do not know on what occasion); it must have had several clauses, but only one survives:

> And I will not bring up past wrongs (*ou mnēsikakēsō*) against any of the citizens except the Thirty and the Ten and the Eleven and the governors of Piraeus, nor even against any of these who is willing to submit to an accounting (*euthunai*) of the office he held.[9]

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7 For the meaning and implications of the last clause, see S&T ch. 11.

8 In addition, a completely new legal procedure, the *paragraphē*, was introduced, so that a defendant who claimed that he was being prosecuted in breach of the amnesty could raise this issue in a preliminary trial; if the *paragraphē* was successful, the original prosecution was automatically halted. We possess a speech written for the first such trial to be held (Isocrates 18).

9 This text is based on Andoc. 1.90, but the list of those excluded from the amnesty is taken from *Ath.Pol.* 39.6. Andocides mentions only the Thirty and the Eleven; that the Ten (the government that immediately succeeded the Thirty) were on the list is clear from the fact that one of their number, Rhinon (Isoc. 18.6), had to undergo *euthunai* (*Ath.Pol.* 38.4; see Rhodes 1981, 469), and that the

This renunciation must have been subject to one exception, because it was specified in the agreement of which the amnesty formed part that "there shall be suits for homicide according to ancestral custom, if anyone has committed homicide or wounding with his own hand" (*Ath.Pol.* 39.5).

In addition, amnesty clauses were added to at least two existing civic oaths. In the oath of the Council (see §3.3) was inserted an undertaking that

> I will not accept any *endeixis* or *apagōgē* on account of things that happened in the past, except against those who have fled.

This provision refers to a power, which the Council appears to have possessed, of trying and punishing serious offenders on its own authority, even imposing the death penalty, without reference to a jury-court, under the procedures of *endeixis* or *apagōgē*.[10] We hear of an early case in which this oath was tested (Isoc. 18.21–22):

> It is not only in the enactment of laws that you have shown how highly you value the agreement, but in the case of Philon of Coele. He was charged by *endeixis* with wrongful conduct as ambassador (*parapresbeia*), and on the facts he had no defence; but he pleaded the agreement, and you decided to free him of the charge without even letting it go to trial. Thus the city does not think it proper to punish even self-confessed wrongdoers.

As usual, the orator's "you" may denote any body acting in the name of the Athenian state, and here the Council is most likely meant. At the same time it was apparently ready to take drastic action against others who did violate the amnesty: Archinus, the most influential politician in Athens in the period immediately following the restoration, is said (*Ath.Pol.* 40.2) to have arrested a man and brought him before the Council (the verb used is *apagagōn*) for bringing a prosecution in breach of the amnesty, and persuaded the Council to order his execution "without trial", i.e. without bringing him before a jury-court.

A clause was also added to the jurors' oath (§5.4) to the effect that

> I will not recall past wrongs nor heed another's persuasion to do so, but I will vote according to the laws now in force.

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governors of Piraeus were on it is shown by the provision in *Ath.Pol.* 39.6 that their *euthunai* should be held before a jury of Piraeus residents.

10 In *apagōgē* the offender was summarily arrested and taken before a magistrate; in *endeixis* he was denounced to a magistrate, who then had him arrested. In both procedures the magistrates involved were usually, though not always, the Eleven; but from the fifth century to the 320s we find a scattering of cases indicating that the Council had similar powers (see Hansen 1975, esp. 31–34).

How effective were "the oaths and the agreement", as Athenians habitually described the settlement of 403, in securing a fresh start without damaging recriminations? Athenians of later generations would doubtless have liked to believe what the *Ath.Pol.* asserts about the drastic action of Archinus mentioned above:

> He said that they [the Council] would now demonstrate whether they wanted to keep the democracy safe and abide by their oaths. If they let this man go, they would encourage others [to imitate him]; if they made away with him, they would set an example to everyone. And that is what happened; for after the man was put to death, no one ever brought up past wrongs again.[11]

To some extent it depended what one meant. It is clear that speakers in the courts – and doubtless in the *ekklēsia* too – felt free to refer to any matters tending to discredit their opponents, including their activities during or before the ascendancy of the Thirty. Such matters could also be freely raised when a man was undergoing a scrutiny (*dokimasia*) of whether he was a fit person to hold a public office. It is striking that when Mantitheus, chosen by lot as a councillor some time in the late 390s, is accused of having served in the cavalry under the Thirty, he makes no attempt to argue that the accusation is in breach of the amnesty oath, but argues instead (not very convincingly) that it is not true (Lys. 16.3–8). A decade or so later, in 382, a certain Leodamas had been chosen by lot as chief archon. He was challenged at his *dokimasia* by a leading politician, Thrasybulus of Collytus, who alleged that Leodamas' name had been inscribed on a pillar on the Acropolis as that of a traitor and that under the Thirty he had had the inscription erased. The cleverness of Leodamas' reply was remembered many years later (Arist. *Rhet.* 1400a32–36): he said that the accusation could not be true, because if the inscription had really been there he would not have wanted to erase it at that time, since "the Thirty would have trusted him more if he was on public record as an enemy of the people". But he was rejected all the same, and replaced by the reserve choice (*epilachōn*), one Evander. Evander in turn was challenged by a friend of Leodamas,[12] and we have the latter part of his challenger's speech (Lysias 26). Evander, like Leodamas, appears to have been one of the "men of the town" who remained in the city under the Thirty's rule, and he is rather vaguely charged with responsibility for some

11 It may well have been directly after this that Archinus took another step with the same end in view, introducing the law providing for the *paragraphē* procedure (Isoc. 18.2–3).

12 Lys. 26.15 (unconvincingly disclaiming any personal motivation).

of their judicial or extra-judicial killings;[13] as to the "oaths and agreements", the speaker argues that they apply only to those who have committed no crime (Lys. 26.16–20)! He himself, like Mantitheus, accepts that he would be vulnerable to attack if his own past record was flawed (Lys. 26.21–22). In the end, perhaps owing to Thrasybulus' support for Evander (Lys. 26.21–24), the challenge failed, and Evander served as archon for 382/1. But all concerned seem to have accepted the legitimacy of attacking a man as unfit for office because of his behaviour before 403.[14]

The amnesty oath was thus never understood as prohibiting hostile comment in public fora on a man's "past wrongs"; and it was also never understood as applying to *dokimasiai*, where – as Mantitheus, undergoing the procedure, himself affirms (Lys. 16.9) – "it is right to give an account of one's whole life". It amounted in practice, therefore, to an undertaking to observe and uphold the law providing that "the laws are to be applied as from the archonship of Eucleides"; which may be unpacked into about five separate obligations:

- not to bring a prosecution in breach of this law
- as an arbitrator, not to give a verdict in favour of such a prosecutor
- as a juror, not to vote for the prosecution in such a case (the juror would also, of course, be bound by the similar clause added to his own oath)
- not to propose any new enactment that abolishes, weakens or evades the law's prohibition
- as a *nomothetēs*, not to vote for any such enactment

Logically it should probably also have been taken as requiring magistrates not to accept prosecutions in breach of the law or bring them into court, but the institution of the *paragraphē*, putting the decision on the legality of a prosecution into the hands of a jury, seems to have been regarded as relieving magistrates of this responsibility. In the one surviving *paragraphē* case of this kind (Isocrates 18) – the first ever tried – Callimachus had sued the speaker for 10,000 drachmae on the ground that he had had a

13 Lys. 26.8, 12. In §10 the speaker makes it sound as though Evander had served in the cavalry under the Thirty, and on their puppet Council; but he does not actually assert these things.

14 As Todd has pointed out (Todd 2010, 95 n.96), one speaker in (what purports to be) a *dokimasia* speech (Lys. 25.28, 34) does urge the jury to uphold "the oaths and the agreement"; but he does this only after arguing elaborately that, while he did remain in Athens under the Thirty, he did nothing wrong during that time.

hand in depriving him of a sum of money which had been declared by the Council, apparently under the regime of the Ten, to be state property. This seems a clear case, but there may in fact be some uncertainty. The speaker did, after all, at an earlier stage, agree to pay Nicomachus two hundred drachmae (Isoc. 18.9–10), which is odd behaviour if he had a rock-solid legal defence. He brings no witness to confirm his key contention that the decision declaring the money to be state property was made under the Ten and not under the democracy – and even his own words on the subject (Isoc. 18.6–7) do not unequivocally assert that this was so. And it is also significant that Callimachus had been able, *after* the restoration, to sue another man, Patrocles, for some of the money, and that Patrocles had been prepared to reach an out-of-court settlement, paying 1000 drachmae (Isoc. 18.7). We may be in a grey area here.

Another grey area could be created by bringing a prosecution which, while nominally concerned with recent activities, depended in essence on allegations about the defendant's behaviour before 403. Some loophole of this kind must have been exploited by Teisias when he sued the son and namesake of Alcibiades, in or about 397, for the price of a chariot and team of which Alcibiades had allegedly defrauded him in 416.[15] Perhaps he claimed that Alcibiades junior was wronging him *now* by refusing to hand over the money. In the defence speech as we have it (Isocrates 16) no mention is made of the amnesty; the first half of the speech is lost, but it is summarized in the first surviving sentence and seems to have been concerned entirely with the facts of the case, Alcibiades' defence being the rather disingenuous one[16] that his father had been in possession of the team "not by taking them away from Teisias but by purchasing them from the Argive state". Possibly he had attempted to block the case by a *paragraphē* and failed.

It is clearer how this grey area was exploited in two notable prosecutions in 400/399. In the first of them, Andocides was prosecuted

15 This affair is also referred to by Plutarch (*Alc.* 12.3), who seems, however, to have conflated it with another dispute, over a different team, with a man named Diomedes ([Andoc.] 4.26–27; D.S. 13.74.3). The chariot and team had originally been the property of the Argive state. Teisias, wishing to buy it, asked Alcibiades to do so on his behalf, knowing that Alcibiades had great influence at Argos. Alcibiades did so – and entered the team for the Olympic race as his own. See Gribble 1999, 98–100; 2012, 55–57.

16 The real issue, of course, was whose money had been used for the purchase. Teisias must have alleged that he had passed the money to Alcibiades to make the purchase on his behalf; otherwise his only loss would have been the prestige of an Olympic victory, and he could hardly have claimed five talents (Isoc. 16.46) on that basis alone.

for attending the Eleusinian Mysteries when debarred from doing so by the decree of Isotimides. This decree, passed in 415, excluded from temples and the Agora anyone who had committed impiety and had admitted to doing so – a formulation probably designed specifically to catch Andocides, who had admitted involvement in the mutilation of the Hermae and/or in profanations of the Mysteries[17] and, under promise of immunity from prosecution, had denounced others for the same offence(s). The prosecution must have claimed that the decree was still valid and that therefore Andocides had committed a new offence; in his defence he relies (somewhat shakily) on the letter of the amnesty (and other enactments of the period 405–403) and (somewhat less shakily) on its spirit, but he spends half his speech trying to show that he had neither been guilty of impiety, nor admitted it, nor denounced anyone who had not already been denounced by others. In effect – and the co-prosecutor whose speech has survived as [Lysias] 6 makes no attempt to conceal this – he is being tried for what he had allegedly done in 415. His legal case on the amnesty was probably not strong, as there is no sign that he attempted to use the *paragraphē* procedure. He was supported, however, by two prominent politicians, Anytus and Cephalus (Andoc. 1.150), and was acquitted.

The other prosecution was that of Socrates. The offences with which he was charged – not recognizing the gods of the city, and corrupting the young – were specified in the present tense; whenever Socrates was supposed to have begun committing them, it was undoubtedly alleged that he had continued to do so right up to the time of his trial. There was thus no legal breach of the amnesty: if necessary, it could have been argued that Socrates was only being charged with committing the offence during the last three or four years – and the prosecution was doing nothing wrong in *speaking* about what he had done at earlier times. This, at any rate, they certainly did. Xenophon (*Mem.* 1.2.12–46) is most anxious to defend Socrates against the charge of having been the teacher of Alcibiades and Critias, who both "did the city very great harm", and Aeschines (1.173) half a century later tells the Athenians that they had "put Socrates the sophist to death because he was shown to have been the educator of Critias". Even in Plato's *Apology* (33a) there is a revealing sentence. Having described how he refused to obey an order from the Thirty to arrest Leon of Salamis, Socrates continues:

> Through all my life, whatever I have done in the public sphere, I shall be seen to have displayed that character, and I have been just the same in the private sphere:

17 Exactly what he had been guilty of, and exactly what he had admitted, remain in dispute; see MacDowell 1962, M.J. Edwards 1994:11–26, and Furley 1996.

> I have never yielded to anyone in anything contrary to justice, and in particular not to any of those who my slanderers say were my pupils.

In its context, that must refer above all to members of the Thirty and especially to Critias; likewise when shortly afterwards (33b) Socrates denies all responsibility for the good or bad behaviour of anyone with whom he has associated. Thie evidently proved unconvincing, and Aeschines (whose father, himself a professional educator, born in 437 and still alive in the 340s,[18] may well have been present at Socrates' trial) probably hit the nail on the head. As it was, Socrates was only convicted by about sixty votes out of five hundred (Pl. *Apol.* 36a), and but for his association with Critias he very likely would not have been convicted at all (or maybe even prosecuted in the first place); therefore he was executed in 399 for having "taught" a man who had died in battle in 403.

As Todd has noted,[19] there appear to be quite a clutch of prosecutions in and about 399 which stretch the amnesty somewhat. One is the prosecution of Agoratus (Lysias 13), by *apagōgē*, for causing the judicial murder of Dionysodorus and others by denouncing them. Not till nearly the end of the speech (13.88–90) does the prosecutor address the issue of the amnesty, and then in a transparently dishonest manner. He cannot, of course, rely on the exclusion of murder cases from the amnesty, since that applied only to those who had killed with their own hands. Instead, he first argues that if Agoratus relies on the oaths "he is admitting that he is a murderer" – as if an accused person had no right to run two alternative defences even when both were sound; and then he claims that the oaths were made between the "men of the town" and the "men of the Piraeus" and have no application when, as here, one member of the latter party is prosecuting another (the wording of the oath, which speaks of not bringing up past wrongs against "any of the citizens", could almost have been designed to rule out any such interpretation).[20]

There had recently been a very similar case involving another informer under the Thirty, Menestratus (Lys. 13.55–57), whose personal history was closely parallel with that of Agoratus. If a plausible suggestion by Todd (2000, 150 n. 31) is correct, Menestratus, believing himself protected by the amnesty, tried to exercise the normal rights of a citizen and registered for jury service. Then, when he was actually sitting in court, someone denounced him as a murderer, and he was tried and executed – by

18 Aeschines 2.147; Dem. 19.249.

19 Todd 2007, 409–10 n.42.

20 Phillips 2008, 194–8, argues that Agoratus could not claim the benefit of the amnesty because he was not a citizen. But if the prosecutor had this strong argument available to him, why did he not use it in 13.88–90?

apotumpanismos, a form of execution which in our sources is often associated with *apagōgē* cases. This was exploiting the same sort of loophole in the amnesty that had served the prosecutors of Andocides: Menestratus was not being charged with murder, but with entering a place which, as a murderer, he was forbidden to enter (cf. Dem. 23.80).[21] It may have been this trial which emboldened Dionysodorus' family to attack Agoratus by the same route.

The prosecution, however, never actually say that Agoratus had entered any of the places forbidden to murderers. If he had, they could have relied straightforwardly on the Menestratus precedent. But he too had seen what happened to Menestratus, and he knew that to be safe now he had either to leave Athens or to keep away from the forbidden places. Evidently he chose the latter, which seemed to stalemate his enemies. So long as he did not go to a forbidden place, they couldn't arrest him; nor could they prosecute him *now* – at any rate not by *apagōgē* – for entering forbidden places *previously*, because *apagōgē* could only be used against an offender who had been caught, as it were, red-handed. Instead, therefore, it appears that the prosecutor tried to see if he could get away with arresting Agoratus directly for the murder of his brother – which required him to assert, and probably to swear, that he had caught Agoratus red-handed (13.85–87) committing a murder which had taken place (if at all) years before!

Whichever aspect of it one considers, the prosecutor's legal case is wretchedly poor, and the responsible magistrates (the Eleven) ought never to have allowed the prosecution to come to court. However, they did, and it is not very likely that the jury's decision, whatever it was, was based on their view of the appropriateness of the phrase "caught red-handed". If Agoratus was convicted, it will have been because he, like Menestratus, had been responsible for the deaths of innocent people who had been defending democracy. If he was acquitted, it will have been either because of the amnesty, or because of Agoratus' past services to the democratic cause (which the prosecutor of course disparages),[22] or possibly because of influential witnesses, or supporting speakers, on whom he was able to call.

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21 However, Phillips 2008, 191 n. 15, noting that Agoratus' prosecutor never actually says that Menestratus was tried and executed for the killings that had resulted from his denunciations, and does not cite his case as a precedent for his preferred interpretation of the "red-handed" rule, suggests that he may have been prosecuted not for his actions under the Thirty but for an ordinary murder committed after the restoration of democracy.

22 Lys. 13.70–82.

The case of Agoratus is the worst example we know of an attempt to evade the amnesty, and one is hard put to it to acquit the prosecutors of perjury. If it failed badly, it may have sent such attempts out of fashion; at any rate they subsequently become rare, except in *dokimasia* cases to which, as we have seen, the amnesty probably did not apply. The amnesty did not, and could not, guarantee complete equality between the "men of the town" and the "men of Piraeus"; but it at any rate protected the former from direct legal victimization, and Rhodes (1981, 471) is correct to say that "as far as we know no one was convicted on a charge on which the amnesty ought to have protected him". Some forty years later Xenophon, no great friend of democracy, was to remark (*Hell.* 2.4.43) that the Athenians "still today form a citizen body together, and the *demos* abides by its oaths"; and Aeschines in 343 irrelevantly[23] introduces the amnesty into his tendentious survey of recent Athenian history, remarking that it caused "all men" to regard Athens as the wisest of cities and that after it the democracy "once again grew in stature and recovered its old strength" (Aeschines 2.176–7).

The Athenian example was followed at Cyrene in 401/0 (D.S. 14.34.3–6). A democratic faction had taken control of the city; five hundred members of leading families had been put to death, and the rest had fled. When the exiles were reinforced by a mercenary force of three thousand Messenians (recently expelled by the Spartans from Naupactus and Cephallenia) it appears that neither side was prepared to risk battle, and negotiations led to a settlement under which both sides swore "not to recall past wrongs" and the *polis* was peacefully reunited.

It did not always go so well. In the course of the terrible civil conflict at Corcyra, the Athenian general Nicostratus tried to broker a settlement, and thought he had succeeded (Thuc. 3.75.1). Ten men who were thought to be "most guilty"[24] were to be put on trial (in fact they had already fled) and the rest of the Corcyraeans were to "make a treaty with each other and with the Athenians, to have the same friends and enemies" and live together peacefully. But this treaty, which would certainly have included some kind of reconciliation oath, was never actually made, and a few days later the oligarchs were being massacred by the hundred. And if the treaty *had* been made, the outcome might not have been very different; this is

23 He is arguing that (external) peace has always brought benefits to Athens, and war has always done her harm; the success of the amnesty is not evidence for either of these propositions. His source, Andocides (3.3–11), had made no mention of the amnesty.

24 Guilty, that is, of the murder of the democratic leader Peithias and about sixty of his supporters in the council chamber (Thuc. 3.70.6).

Thucydides' view (3.82.7, 3.83.2) of the effectiveness of reconciliation oaths in similar situations during the Peloponnesian War:

> If ever reconciliation oaths were taken, they were offered by each side only because they had for the present no other resource, and held good only so long as this state of affairs continued; but when an opportunity presented itself, he who was first to act boldly and catch his enemy off guard thought that the pledge he had broken only made his revenge sweeter than if he had taken it openly; considerations of safety told in the same direction,[25] and so did the chance to win the glory of superior intelligence by gaining a victory through deceit. … No promise was secure enough, no oath fearful enough, to effect a reconciliation; everyone was convinced that there was no hope of a stable settlement, and so their anxiety to avoid risk exceeded their ability to exhibit trust.

As always, one need not suppose that on the occasions of which Thucydides is thinking, the "first [faction] to act boldly" would blatantly and manifestly violate its oath; more likely it would find an "artful dodge" (see S&T ch. 10). Something of the kind may have happened at Megara in 424. An Athenian attempt to gain control of the city, with the support of Megarian democrats, had been foiled by the Spartan Brasidas. When both the Athenians and Brasidas' force had withdrawn from the area,

> of the Megarians in the city, those who had been most deeply involved in the intrigue with Athens, knowing that they had been detected, at once slipped away; the others, after discussions with the friends of the [oligarchic] exiles, recalled them from Pegae, making them pledge themselves by solemn oaths[26] that they would not recall any past wrongs and would plan what was best for the city. In fact, however, as soon as they had got into office, they held a review of the army, divided it into companies, and picked out about a hundred men, consisting of their personal enemies and those who were under the strongest suspicion of collaborating with the Athenians; they compelled the people to vote publicly for or against them, and the group were condemned and put to death. The city was then turned into an extreme oligarchy. (Thuc. 4.74.2–3)

One can readily envisage ways in which the oligarchs could have rationalized their actions and reassured themselves that they had not broken their oath (something like "all we did was give the people the opportunity to pronounce their own judgement"). As we have seen, there was a not insignificant risk that democrats at Athens, twenty or twenty-

25 The point is that each side was sure the agreement would be violated sooner or later, and reasoned that their only hope of safety was to be the first to violate it.

26 Thucydides' language might be taken to imply that the oaths were sworn only by the returning exiles, but we can safely assume that "the Megarians in the city" took an oath also, having grudges of their own against the exiles which they might otherwise seek to satisfy (cf. Thuc. 4.66.1).

five years later, might have done likewise, had it not been for men like Archinus and Anytus.

A reconciliation oath whose outcome we do not know, but whose terms and circumstances, thanks to a recent discovery, we now know in greater detail than those of any other (even that of 403 in Athens), is the one taken by the citizens of Dicaea, in Chalcidice, at some date between 365 and 359[27] (during the reign of Perdiccas III of Macedon, who is named as a guarantor of the agreement and oaths). There had been civil strife between two factions led by Xenophon and Demarchus; some lives had been lost, and Demarchus' faction had fled, or been driven, into exile. Both factions had now agreed to a reconciliation process, and an agreement was drafted by a board of "reconcilers" (*sunallaktai*) under the presidency of one Lycius. An inscription discovered in 2001 (*SEG* lvii 576) preserves the decree which Lycius submitted to the citizen assembly (and passed, with three additional clauses), and also the text of the oath.

The main decree provided that the oath should be sworn, within three days, by all citizens "in the three holiest sanctuaries and in the Agora[28] … after sacrificing a boar"[29], the gods invoked being Zeus, the Earth, the Sun and Poseidon; Lycius and the *sunallaktai* were to administer the oath; a copy on stone was to be set up in the sanctuary of Athena and also in the Agora. Anyone who was abroad was to be sworn within three days of his return; anyone who was ill, within three days of his recovery. Anyone failing to take the oath was to be deprived of all his rights and have his property confiscated and dedicated to Apollo Daphnephoros, and Perdiccas was to be asked to put to death the members of any group rejecting (?) the oath and its pledges, and to allow the Dicaeans to seize them anywhere in his territory. An additional clause set a single day (the fifth day from the end of the month Daphnephorion) for the bringing of charges for homicides committed before the start of the current year, and provided for the punishment of anyone bringing such a charge after this deadline, or any official accepting one; prosecutions or lawsuits of any other kind arising out of past disputes between members of opposing factions were prohibited absolutely. Two further additional clauses make

27 Voutiras & Sismanides 2007 (who date it to the winter of 364/3). We are most grateful to Dr Benjamin Gray for drawing our attention to this inscription.

28 It is not clear whether this means that the oath was to be taken four times over, or whether the citizen body was to be divided into groups, one group taking the oath in each of these four places, under the supervision of different members of Lycius' board.

29 Probably this means that one boar was to be sacrificed in each of the four locations; the citizens may well have been required to take the oath while holding or touching its "cut pieces".

special provision for the children of six named persons (the fathers being presumably dead); all of them must take the oath, but three of the families are exceptionally allowed to bring lawsuits about past events provided they do so within a limited time (probably two to three months). It is next recorded that the oaths were taken by all the citizens except for two, Daphnon and Cephisodorus; it would seem that the *sunallaktai* refused to let them swear, probably because of the gravity of charges made against them, but they were to be allowed to "share in the oath" (i.e., no doubt, in both its obligations and its benefits) after their trial, provided it ended in an acquittal.

There follow the terms of the oath:[30]

> I will observe justice in all my acts as a citizen, whether public or private, and I will not change the ancestral constitution, nor receive foreigners to do harm to the community of the Dicaeopolitans or to any individual whatsoever. And I will not recall past wrongs, either in word or in deed; and I will not put anyone to death, nor punish him with exile, nor deprive him of property, on account of past events; and if anyone does recall past wrongs, I will not permit it. And I will remove, and submit to removal, from the altars;[31] and I will give and receive the same pledge;[32] and I will purify and undergo purification as the community may direct;[33] and if I have given a pledge or made another do so, I will give and receive according to the pledge that I have given or caused to be given. And I will abide by the judgements that the city has made. And if I have sworn any other oath,[34] I annul it, and I will treat this oath as the most binding.[35] I will stand by this oath, so I affirm by Zeus, Earth, the Sun, Poseidon. If I should keep my oath, may many blessings come to me, myself and my children and my property;

30 The inscription is extremely well preserved, and in this part of it restoration of the few lost letters is nowhere in doubt.

31 This undertaking neither to claim nor to respect a right of sanctuary probably refers to those attempting to avoid punishment for murder in cases in which prosecution was permitted under the agreement.

32 This clause seems to refer to reconciliations between individuals, stipulating that these must be on equal terms. The next clause but one ("if I have given a pledge …") then makes it clear that individual agreements already made must nevertheless be honoured whatever their terms may have been.

33 Probably referring to cases of homicide in which there was no prosecution. In one of the clauses added to the decree (lines 52–59) it is provided that "the children of Hermippus, Epichares and Demopheles … shall swear and purify and be purified" either immediately or, if abroad, as soon as they return; presumably they were deemed to have inherited pollution from their fathers (cf. Parker 1983, 204–6).

34 This must mean "any oath inconsistent with this one".

35 On the implications of this clause, which should be contrasted with the clause in the oath of Demophantus (above, p. 121) about "oaths that *have been sworn* … in opposition to the Athenian people", see S&T ch. 11.

> but if I should break it, may it be ill with me, myself and my children and my property.

It was nevertheless apparently thought necessary to reinforce this oath by a further ritual, which was held in a sanctuary of Apollo: perhaps (see S&T ch. 11) it was felt that an oath which was to annul and supersede earlier oaths sworn by the same person required an extraordinary degree of sanctification lest an attempt be made later to annul and supersede it in its turn. The declaration to be made at the Apollo sanctuary is inscribed immediately after the main oath, without a break:

> I accept from the altar a deposit (*parathēkē*)[36] from Apollo according to the oaths which I have sworn. If I abide by the oaths and all the pledges, may many blessings come to me, myself and my children and my property; but if I break my oath, having accepted a deposit from Apollo, may I be utterly destroyed, myself and my offspring and all that is mine, and may the god from whom I took the deposit, together with all the other gods, punish me.

The background to this reconciliation is clearly very fraught. Much blood has flowed, and some of it will never be avenged; certain specific cases seem to be particularly sensitive; it is necessary to invoke, as guarantors of the oath, six major gods by name (if we include Athena, in whose sanctuary a copy of the oath is to stand) and all the other gods collectively – and King Perdiccas too. Whether the agreement held until Dicaea's independence was ended, like that of its neighbours, by Perdiccas' brother Philip II, we cannot tell.

In all these cases, the need for a reconciliation oath arose in part from the return to the city of an exiled faction (or, in Corcyra, of a large batch of released prisoners of war). Such restorations of exiles were a notable part of the Greek policy of Alexander the Great, who eventually in 324 ordered a general restoration throughout Greece, and we have some inscriptional evidence that the consequences of these decrees routinely included an oath of reconciliation. At Mytilene, probably in 332 (RO 85 B 21–37, esp. 31–32), twenty arbiters were to be chosen (ten from the returning exiles and ten from those who had remained in the city) who were to make recommendations to the people about, *inter alia,* "an oath [which the] citizens [are to swear]"; the terms of the oath may well have resembled those of the arbiters' own remit, which was to ensure that "all

36 This term normally denoted an object handed over by one person to another for safe keeping; it remained the property of the depositor and had to be returned on demand. In this case the object referred to was something (perhaps an inscribed tablet? cf. *Tab.Defix.* 22.39, 26.27 Audollent) which the swearer was to keep, bearing testimony to the fact that he had taken the oath; as it was Apollo's property, he would be guilty of sacrilege if he destroyed it.

should abide by the terms of settlement which the King prescribed … and should inhabit the city [and territory] in concord with one another" (lines 28–30). From Tegea (*IPArk* 5 [= RO 101].57–66) we have, in fragmentary form, the actual text[37] of the oath as sworn by the citizens in the city on the occasion of the general recall of exiles in 324. They swore "by Zeus, Athena, Apollo and Poseidon" that they would bear goodwill to the returned exiles "whom the city has decided to receive back", would not henceforth recall past wrongs against any of them, and would not jeopardize their safety either in [ ] or in the public affairs of the polis. Some further undertakings follow which are not well preserved (repeated mention is made of a *diagramma*, apparently the text of Alexander's edict), and the oath ends with "nor will I plot against anyone". A complementary oath will doubtless have been sworn by the exiles themselves. As we have seen, no oath of this kind could ever give a complete assurance that factions would indeed remain at peace with one another. It remained true that they offered a greater assurance than could have been had in any other way.

37 But nothing else – not even a statement of who is to swear the oath. The reason is probably that this inscription contains only the *modifications* of Alexander's edict which had been requested by the city and agreed to by Alexander (lines 1–4; cf. D.S. 17.113.3 where Alexander responds to embassies "raising objections concerning the restoration of exiles").

PART TWO

OATHS AND INTERSTATE RELATIONS

(*A.J. Bayliss*)

Introduction

Part One of this book has focused on oaths sworn by individual Greeks as part of rituals that were highly localized. If these oaths were kept or broken it was largely a local affair. It was no trouble to any non-Athenians if Leocrates had broken the Athenian ephebic oath as Lycurgus alleged (§2.3). But if Leocrates had sworn an oath on behalf of the Athenians in an agreement with another state it would have been a different matter altogether. This section will focus on oaths sworn by individuals and groups as representatives of Greek states. Oaths were central to all meaningful interstate agreements in the Greek world: "ancient treaties were, as a matter of definition, an exchange of oaths[; a] mere promise made without the appropriate religious formula was not held to be binding on the parties".[1] Not only did the swearing of oaths by each party in the presence of the opposite party indicate that the treaty had been accepted by both sides,[2] but their breach would signal to both parties that the agreements were no longer binding, affecting not only the individual who swore the oath on behalf of his homeland but also the state as a whole, or perhaps even multiple states.

The primacy of oaths in international agreements is clear throughout the Archaic and Classical periods. They are crucial in formalizing military alliances (both bilateral and multilateral), peace treaties (again both bilateral and multilateral), and battlefield truces. Yet modern scholars more often than not overlook oaths in their discussions of interstate agreements. This tendency is unfortunate, for when it comes to the making and particularly the breaking of alliances and treaties our primary sources frequently focus on the oaths that bound the different parties to the agreements. This is clear in all our contemporary sources, from Homeric epic through to Xenophon and the fourth-century orators. Just as Homer's Agamemnon frequently denounces the Trojans for breaking a sworn truce, Thucydides portrays the Athenians and the Spartans accusing each other of breaking oaths of the Thirty Years' Peace in order to justify going to war, Xenophon paints Sparta's decline and fall as the result of

1 Bederman 2001, 61–2.

2 Low 2007, 119; MacDowell 2009, 321.

violating the sworn obligations of the King's Peace, and Demosthenes' speeches are riddled with accusations of perjury levelled at Philip of Macedon. So, too, inscriptions; when the Greeks (in particular the Athenians) made a sworn treaty they wrote it down on stone for all to see.

The crucial role of the oath in binding international agreements is brought home by Herodotus, who effectively uses the term 'the oath' (*to horkion*) or the verb 'to swear' (*omnumi*) as synonyms for making an alliance (*summachia*). Thus, Herodotus (1.77) indicates that when Croesus was at war with Cyrus of Persia, he marched back from Pteria to Sardis, intending to ask for help from the Egyptians "in accordance with the oath" (*kata to horkion*). It is only afterwards that he tells us that Croesus had previously made an alliance (*summachia*) with the Egyptian king Amasis. Herodotus clearly assumes that his audience will know that when Croesus is going to ask for help *kata to horkion*, that he is asking them to fulfil their obligations in a sworn alliance. Later Herodotus (7.148) refers to those Greek states who agreed to alliance against Xerxes as "the Greeks who swore against the Persians" (*hoi … sunōmotai Hellēnōn epi tōi Persēi*) rather than "the Greeks who made an alliance against the Persians". Later writers such as Thucydides and Xenophon employ very different terminology when discussing alliances, perhaps partly accounting for the modern under-appreciation of the importance of oaths in interstate agreements (see below, ch. 9).

But while oaths hold a prominent place in our extant Classical sources in relation to alliances, truces and peace treaties, these sorts of agreements seem to have been a relatively recent innovation in Greek international relations. The earliest securely-dated examples of interstate oaths in the Greek world date to the second half of the sixth century (see below), and the earliest to include either a form of the noun *horkos* or the verb *omnumi* – the alliance between Sparta and Croesus of Lydia (Hdt. 1.67–9) – cannot be dated earlier than 560 BC. The relative novelty of sworn alliances between different states can be seen in the fact that the tradition had it that the "Achaeans" were bound to follow Agamemnon against the Trojans not by oaths to fight together or even by oaths of loyalty to the king, but by oaths to defend the successful suitor of Helen (Hes. fr. 204.78–84; Stesichorus *PMG* 190; Soph. *Phil.* 72; Eur. *IA* 58–65; Thuc. 1.9.1; Arist. *Rhet.* 1396b17).[3] Thucydides argues that it was more to do with Agamemnon's power (particularly his naval power) than the oaths of

3 Even in Aeschylus' *Oresteia*, where much play is made with the language of alliances (see Sommerstein 2010b, 205, 260–1), there is no suggestion that any oath-sanctioned bond exists between Agamemnon and the other leaders, or between cities. For a recent discussion see Alonzo 2007, 209.

the suitors. Given that this immediately precedes Thucydides' account of the breakdown in relations between Athens and Sparta in which he goes on (1.88) to dismiss the Spartans' stated justification for going to war against Athens – the alleged breaking of the oaths of the Thirty Years' Peace treaty – as secondary to their fear of Athenian power, a power that was based on their maritime prowess, one need not give Thucydides too much credit on this issue.

It is striking that there are no records of oaths being involved in the earliest war involving multiple states – the proto-historical Lelantine War. Herodotus (5.99) indicates only that during the Lelantine war the Milesians came to the assistance of the Eretrians, while the Samians assisted Chalcis. Thucydides (1.15.3) states that when the dispute arose between Chalcis and Eretria all the rest of the Greeks took sides "in alliance" (*es xummachian*) with one side or the other. In normal Thucydidean usage this would imply a sworn agreement, but the absence of any linguistic markers of an oath in Herodotus should urge caution,[4] for if Herodotus knew that an oath had been sworn he would surely have mentioned it.

But the lack of an oath does not preclude an alliance of sorts, for it was possible for different states to coordinate military action without recourse to formal oaths. The clearest evidence comes from Thucydides (1.32) where the Corcyraeans openly discuss the idea of asking for military aid from Athens without a formal alliance before opting for a sworn agreement. There are also situations where joint military action occurred without an obvious formal alliance. There is for example no evidence that the Athenians were allied to Sparta at the time they requested their assistance prior to the Battle of Marathon.[5] It also appears that the

4 Forrest (2000, 286) accepts the historical veracity of the war and the alliances that grew out of it. Parker (1997, 46ff, 59ff) accepts the war but casts doubt on the alliances. J.M. Hall (2007a, 102) recently argued that the whole episode is of "doubtful historical value", and elsewhere (2007b, 1–7) presented a brief discussion and "deconstruction" of the Lelantine War. Strabo (10.1.12), who provides the fullest account of the Lelantine War, makes no mention of oaths.

5 Krentz (2007a) has attempted to argue that the fourth-century Athenian inscription recording "the oath the Athenians swore against the Barbarians" was drafted before the Battle of Marathon. But his argument is riddled with problems, not least the enormous hole that according to Krentz, the Athenians and Plataeans, and the Spartans too, swore in 490 to "tithe" Thebes in the event of victory. Other modern scholars have attempted to show that Sparta and Athens were allies, but the safest conclusion to draw is that the Athenians pleaded for Spartan help because Sparta was recognized as the strongest military force in Greece, and the Spartans accepted their request for precisely that reason.

Boeotians and Chalcidians joined up with the Spartan-led invasion of Attica in 506 without a formal alliance. According to Herodotus (5.74), the Peloponnesian army penetrated Attica as far as Eleusis, where they were joined by the Boeotians as part of a plan (*sunthēma*); the Chalcidians simultaneously attacked Attica from the other side. But Herodotus' language clearly suggests that neither city was formally allied to Sparta. If that were the case Herodotus would have almost certainly described the agreement in different terms. [6]

The earliest securely-dated sworn alliance involving a Greek state in our primary sources is that between the Spartans and Croesus of Lydia (ca 560–550). According to Herodotus (1.69–70) both parties swore that they would be "friends and allies without deceit or guile". Although Herodotus describes this agreement as an alliance, the treaty with Croesus was in reality a glorified guest-friendship sealed by an exchange of gifts. Significantly, exactly half of the sworn alliances recorded by Herodotus involve Near Eastern states. The preponderance of Near Eastern oaths hints at what many scholars argue to be the Near Eastern origin of these rituals. Bederman suggests: "there was a tradition of covenant-making that was common to all of antiquity. There was not only a commonality of terminology in oath-making, traced back to Akkadian and Hittite origins and transmitted then to Egyptian, Greek, Carthaginian, and even Roman models, but also a singularity in the idea that what secured good faith in agreements made between nations was some form of an oath".[7] It will serve us well to examine the rituals that helped make Greek interstate oath treaties binding.

6 Figueira (1981, 5) argues strongly that Thebes was not yet a formal ally of the Spartans because Herodotus' use of the term *sunthēma* implies a more "ad hoc agreement" for this particular campaign. If the Spartans were formally allied with the Thebans it seems likely that Herodotus would have made reference to an oath.

7 Bederman 2001, 61–2.

8 The formulation and procedure of interstate oaths

8.1 Rituals

Oath exchanges entailed more than spoken words; they were routinely accompanied by sacrifices and libations to the gods.[1] These rituals "crystallize and strengthen oaths".[2] We need look no further than the Greek terminology *horkia temnein* "to cut oaths" which is associated with many interstate agreements,[3] to see the importance of sacrifices to oath rituals.[4] Nor should we overlook the fact that "treaties even in later times are described as *horkoi* (oaths) or *spondai* (libations)".[5] The clearest description of the rituals involved in an international oath exchange comes from Homer's account of the truce between the Greeks and the Trojans to facilitate the duel between Menelaus and Paris:

> The attendants brought on the oath-offerings and mixed the wine in the mixing-bowls; they poured water over the hands of the chieftains, and the son of Atreus drew the dagger that hung by his sword, and cut hairs from the lambs' heads; this the heralds gave about among the Trojan and Achaean princes, and the son of Atreus lifted up his hands in prayer. "Father Zeus," he cried, "guardian of Ida, most glorious in power, and you O Helios, who see and hear all things, Gaea and Rivers, and you who in the realms below chastise those mortals who have broken their oath, witness these rites and guard them, that they be not vain…As he spoke he drew his knife across the throats of the victims, and laid them down gasping and dying upon the ground, for the knife had taken their strength. Then they poured wine from the mixing-bowl into the cups, and prayed to the everlasting gods, saying, Trojans and Achaeans among one another, "Zeus, most great and glorious, and you other everlasting gods, grant that the brains of them who shall first violate their oaths - of them and their children - may be shed upon

1 Plescia (1970, 9–10) claims "generally speaking, there was no important oath without a sacrifice and libation". Cf. Burkert 1985, 250.

2 Lateiner 2012, 156.

3 Karavites (1992, 64) argues that the term *horkia temnein* "stood not for just any oaths or agreements, but for those solemnized by the ritual slaughter of animals".

4 In this regard Greek oath ceremonies are reminiscent of the Phoenician expression *krt 'lt* "to cut oaths", the Hebrew expression *krt bryt* "to cut an alliance" and the Latin *foedus ferire*. Cf. Faraone 1993, 76.

5 Adcock & Mosley 1975, 183.

> the ground even as this wine, and let their wives become the slaves of strangers." (*Iliad* 3.269–301).[6]

To seal the agreement Agamemnon performs an elaborate ritual, which includes the trimming of hairs from the heads of three sacrificial lambs and passing them to both the Trojan and Achaean princes, an appeal to various deities to witness the agreement, and a sacrifice. After slitting the throats of the sacrificial victims Agamemnon pours a libation of wine, while all involved utter an explicit self-curse that will doom any participant who breaks his oath.

These rituals were all examples of what can be described as "sympathetic magic". The curses, the cutting of the sacrificial animal into pieces, and the spilling of the wine all symbolize what will happen to anyone who breaks the oath. Swearing over mutilated sacrificial victims is a well-known Near Eastern ritual, but the Greeks went one step further than appears to have been the norm in the Near East by typically bringing the swearer "into direct physical contact with the carcass or some part of it", something that is only once explicitly mentioned in the Near Eastern texts.[7] This physical contact with the sacrificial victims is particularly clear in Aeschylus' portrayal (*Seven* 43–48) of the oath of the Seven which has the messenger report:

> Seven warriors, fierce regiment-commanders, slaughtered a bull over a black shield, and then touching the bull's gore with their hands they swore an oath by Ares, by Enyo, and by Rout who delights in blood, that either they will level the city and sack the Cadmeans' town by force, or will in death smear this soil with their blood.

Other attested oath exchanges brought weapons into contact with the sacrifice. The Oath at Plataea (§9.2) indicates that the combatants "covered the sacrificial victims with their shields" (RO 88), and Xenophon's account of the agreement between the Ten Thousand and the Persians who had also been serving Cyrus the Younger (*Anab.* 2.2.9) concludes with "These oaths they sealed by sacrificing a bull, a wolf, and a boar over a shield, the Greeks dipping a sword in the blood and the barbarians a lance".[8]

The sacrifices accompanying oath-exchanges were by no means uniform. The sacrificial victims could vary in quality and nature. Whereas Agamemnon sacrificed lambs when formalizing his truce with the Trojans,

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6 Cole (1996, 231) describes this passage as our "best source for a detailed description of an oath ritual".

7 Faraone 1993, 66.

8 For more on dipping weapons in blood see §12.2.

the Ten Thousand sacrificed a bull, a wolf, and a boar when making an alliance with the Persians who fought for Cyrus, while the Seven reputedly sacrificed only a bull. According to Pausanias (3.20.9), Tyndareus sacrificed a horse, and made the suitors of Helen stand upon the cut pieces of the victim while they swore to defend Helen and her future husband. Afterwards Tyndareus buried the horse on the spot which came to be known as the "Tomb of the Horse". Aristophanes parodies the variety of such rituals in his *Lysistrata* (181–238). When Lysistrata proposes an oath and is asked which one, she responds "In Aeschylus they take a slaughtered sheep, and swear upon a buckler. Why not we?". But her companions reject the suggestion, and instead suggest an oath sworn on the cut pieces of a white horse. This suggestion is rejected by Lysistrata herself. Finally, Lysistrata's suggestion of sacrificing a wine skin is accepted. After the "victim" has been "disembowelled" the "blood" is poured into a large, black-based cup, which the women all grasp when they swear their oath.

The pouring of libations was also an integral part of interstate oath rituals. Libations of wine were first used in oath rituals by the god Dionysus (see p. 241). The gods too pour libations when swearing, but when they swear oaths by the River Styx they pour a libation of her waters rather than wine. According to Hesiod (*Thg.* 794–806):

> For whoever of the deathless gods that hold the peaks of snowy Olympus pours a libation of her water and is forsworn, must lie breathless until a full year is completed, and never come near to taste ambrosia and nectar, but lie spiritless and voiceless on a strewn bed: and a heavy trance overshadows him. But when he has spent a long year in his sickness, another penance more hard follows after the first. For nine years he is cut off from the eternal gods and never joins their councils or their feasts, nine full years. But in the tenth year he comes again to join the assemblies of the deathless gods who live in the house of Olympus. Such an oath, then, did the gods appoint the eternal and primeval water of Styx to be: and it spouts through a rugged place.

Curses were also a vital part of the sympathetic magic. We have already seen that in the *Iliad* the Greeks and Trojans pray to Zeus to "grant that the brains of them who shall first violate their oaths – of them and their children – may be shed upon the ground even as this wine, and let their wives become the slaves of strangers". The oath of the Amphictyones included a curse against violators that "their land should produce no crops, their wives bear children not like the parents, but monsters, their livestock not produce natural offspring; they should be defeated in war, lawsuits and debates, and they themselves, their households and their race should perish utterly" (Aeschines 3.111). This particularly awe-inspiring curse not only invites destruction on the individual, but also his homeland,

clearly highlighting the role curses were meant to play in ensuring that oaths were kept.

Later curses were much less verbose. We have also seen (§2.6) that the oath formalizing the fourth-century synoecism of Orchomenus and Euaemon included an explicit prayer that "good things" (*t'agatha*) will come to those who keep their oaths, and destruction of themselves and their kin (*genos*) to those who break it. An alliance between Athens and Corcyra in the 370s (*IG* ii² 97) was accompanied by a curse offering "many and good things" (*polla kai agatha*) to those who kept their oath, and "the opposite" (*t'anantia*) to those who do not; while an agreement between the Athenians and the Ceans from 363/2 (*IG* ii² 111) merely promises "much good" (*poll' agatha*) or "bad" (*kaka*) for keeping or breaking the oath.

That the sacrifice and libations are tied to these curses can be seen in the fact that they were not normally eaten.[9] Pausanias makes this clear when he explains that he regrets that he did not ask exactly what happened to the bulls sacrificed for the athletes' oath at Olympia (5.24.10):

> I forgot to inquire what it is customary to do with the boar after the oath of the athletes, though the ancient custom about victims was that no human being might eat of that on which an oath had been sworn.

It is a shame that Pausanias forgot to ask, because there is little in the way of explicit evidence for the disposal of the oath-offering. Some sacrificial victims were buried, e.g. the horse Tyndareus and the Suitors sacrificed. Others were immolated – the Athenian regulations imposed upon Erythrae (*IG* i³ 14) stipulate that before Erythraeans took office as councillors they would take an oath by Zeus, Apollo, and Demeter, "sworn over burning sacrifices", calling down destruction upon themselves and their children if they swore falsely. When Agamemnon and Achilles were reconciled by an oath that Agamemnon had not lain with Briseis, the herald Talthybius slit the boar's throat and "whirled the body about, and threw it in the great reach of the sea, to feed the fishes" (*Iliad* 19.266–7). It is easy to see how the unhappy fate of the victims could be interpreted as dramatizing what will happen to anyone who breaks his oath.

Yet the significance of sympathetic magic was largely overlooked until relatively recently.[10] The modern tendency to overlook this aspect of the

9 Cole 1996, 230.

10 For recent discussions of sympathetic magic in oath rituals see Bederman 2001, 62–7; Faraone 1993.

ritual is most obvious in modern discussions of the ritual of dropping lumps of iron into the sea which accompanied the oaths ratifying the so-called Delian League. According to the *Ath.Pol.* (23.5):

> It was Aristides who assessed the tributes of the allied states on the first occasion…and who swore the oaths to the Ionians that they should have the same enemies and friends, after which they dropped lumps of iron in the sea.

Plutarch (*Arist.* 25.1) provides similar information, claiming:

> It was Aristides who made all the Greeks swear and he himself took the oath on behalf of the Athenians, throwing iron ingots into the sea after the curses (*epi tais arais*).

Scholars have naturally turned to Herodotus' account (1.165) of a sworn agreement in which the Phocaeans "called down mighty curses on any one of them who should stay behind when the rest sailed. Not only this, but they sank a mass of iron in the sea, and swore never to return to Phocaea before the iron should appear again" to demonstrate that the iron lumps signified that the Delian League oaths were meant to be permanent. But Jacobsen has criticized this approach, arguing (following Near Eastern examples) that "the dramatization serves not to symbolize the agreement, but rather to concretize the curses which accompany the oath".[11] Indeed, Plutarch makes the connection between the sinking of the bars and the curse explicit (the act is carried out *epi tais arais*). Powell has endorsed Jacobsen's conclusions noting that "with a restraint unusual in scholars who adduce interesting and important new information, Jacobsen does not claim that his non-Greek analogues disprove the theory involving permanence, but merely – and realistically – that they call it seriously into question".[12]

While the parallel to Near Eastern and other ancient societies seems clear in a broad sense, what Jacobsen does not explain is how Herodotus could misunderstand the significance of the Phocaean rite, [13] and how

11 Jacobsen 1974, 256–7. Jacobsen (1974, 256 n.1) cites Hammond, 1967, 52 as typifying the scholarly trend in trusting that Herodotus (or his informants) knew what they were talking about. Others "named and shamed" by Jacobsen for taking the standard view include Brunt 1953–4, 150, Larsen 1955, 49–50, and Meiggs 1972, 46.

12 Powell 1988, 11.

13 Faraone (1993, 80) suggests that Herodotus did not understand the ritual just as the Hellenistic translators of the Septuagint did not fully understand the ritual associated with Zedekiah's oath in Jeremiah 34.18–20. If Herodotus did fail to understand the ritual this would seem to severely undermine Faraone's suggestion that the ritual is Ionian in nature, for it is difficult to credit that a Greek (albeit

Diodorus could misinterpret a similar rite performed by the Epidamnians. According to Diodorus (9.10.3) the Epidamnians cast "red hot" (*diapyros*) lumps of iron into the sea and swore that their agreement would be binding until they should be brought up hot (*thermos*).[14] It is also worth considering Horace (*Epodes* 16.25) who uses the dropping of iron into the sea as a signal of permanence. It is significant that several modern scholars have not been convinced by Jacobsen's arguments.[15] Burkert rejected Jacobsen, arguing that the sinking of iron bars is "an expression of utter irretrievability" vis-à-vis the oath.[16] So, too, Steiner, who argues:

> The bars act as vessels for words of the oaths and the clauses of the agreement. Iron signifies that the transaction is durable and indestructible, and the gesture of hurling the bars into the water demonstrates that the oath takers' decision cannot be revoked. Just as the sea gives up nothing from its depths, so the oath must abide in its original form.[17]

Perhaps the simplest solution is to sit on the fence on this issue, and to interpret the sinking of the iron lumps as representing both the duration of the oath and what will happen to those who break it. It is also tempting to see the sizzling and bubbling of the water from the red hot iron that would have accompanied the Epidamnian oaths as further symbolism of what will happen if the oaths are broken.

One ritual associated with oaths which appears to have little to do with sympathetic magic is the clasping of right hands (*dexiōsis*). The act of *dexiōsis* often sealed an interstate agreement, and indeed oaths in general[18]

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half-Dorian half-Carian) from Halicarnassus would not understand Ionian religious practices.

14 Winton 1983, 125.

15 While Faraone (1993, 79) accepts and builds upon Jacobsen's arguments, Bederman (2001, 70–1) seems unconvinced. Lateiner (2012, 156) recently argued of the Phocaean oath (without reference to Jacobsen's argument) that "the departed object symbolizes their community's irreversible departure from Anatolia with the impossible act of iron rising from the sea".

16 Burkert 1985, 250.

17 Steiner 1994, 68.

18 Hand-clasps were an integral part of many oath rituals. Sophocles (*OC* 1636–7) has Theseus clasp hands with Oedipus before swearing that he will never betray Oedipus' daughters willingly, and will always do whatever is to their advantage. Elsewhere Sophocles (*Trach.* 1181–1251) has Hyllus clasp Heracles' hand before swearing to his father that he will set him on his funeral pyre and marry Iole; while Demosthenes (21.121) claims that after Meidias denounced Aristarchus in the council as a murderer, he went straight from the Council to the house of Aristarchus and shook hands with him and, invoking destruction on his own

(as with a modern "gentleman's agreement"), but was perhaps also intended to produce a physical bond between the oath-takers. Sworn interstate agreements are frequently symbolized in pictorial form by representations of *dexiōsis*.[19] Perhaps the most significant (albeit least well-preserved) pictorial example is the carved relief from the late fifth-century Athenian inscription outlining the alliance between Athens and Argos (*IG* i^3 86), which according to Lawton "depicts Hera, the pre-eminent deity of Argos, with her consort Zeus looking on…as she clasps the right hand of another figure, undoubtedly Athena, on the right".[20] The depiction of the goddesses clasping hands is clearly meant to signify not only the bond between the Argives and the Athenians, but also the oaths, which would have been accompanied by the act of *dexiōsis*. A better preserved pictorial representation of *dexiōsis* signifiying an oath is that from the relief of the Athenian decree of 403/2 honouring the citizens of Samos for their loyalty to Athens (*IG* i^3 127/*IG* ii^2 1). Given that the decree promises that the Samians will be autonomous and that the Athenians will "act in all respects in accordance with the oath (*horkos*) and treaty (*sunthēkai*) agreed by the Athenians and the Samians", the depiction of Athena and Hera, the patronesses of Athens and of Samos, clasping hands is surely intended to remind the reader of those oaths.[21] Such images of *dexiōsis* mirror the clasping of right hands by the representatives of states in many literary accounts of interstate oaths. Euripides (*IA* 58–65) portrays the royal suitors of Helen clasping hands while swearing the oath that will lead them all to support Agamemon's expedition against Troy:

> Now the matter filled Tyndareus, her father, with perplexity, whether to give her or not, how he might best succeed. This thought occurred to him: the suitors should swear to each other and join right hands and pour libations with burnt sacrifice, binding themselves by this curse: whoever wins the child of Tyndareus for wife, they will assist that man, in case a rival takes her from his house and goes his way, robbing her husband of his rights; and march against that man in armed array and raze his city to the ground, Hellene no less than barbarian.[22]

Xenophon (*Cyr.* 4.2.7–8) portrays the teenage prince Cyrus formalizing a sworn agreement with the Hyrcanians with a hand-clasp. Cyrus later makes a point of honouring this oath (5.2.22), declaring forcefully that he

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head, swore that he had said nothing in his disparagement before the Council. For a more general discussion of *dexiōsis* see Herman 1987, 45ff.

19 Cole 1996, 240.

20 Lawton 1995, 84.

21 For a description see Lawton 1995, 88–9.

22 The oath therefore not only justifies the Trojan War but also the brutal destruction of Troy.

will be true to both the oaths and the right-hand pledges (*tous horkous kai tas dexias*). Xenophon (*Anab.* 2.3.26–9) also states that "Tissaphernes and the brother of the King's wife … gave their right hands in pledge to the generals and captains of the Greeks, receiving the same also from the Greeks" when they swore to a truce after the Battle of Cunaxa. Clearchus later reminded Tissaphernes of this when he began to suspect that Tissaphernes was plotting against him: "I know, Tissaphernes, that both of us have sworn oaths *and given our right hands*, not to injure one another, yet I see you are on your guard against us, and we, observing this, are keeping guard on our side" (*Anab.* 2.5.3–8). That Tissaphernes soon after put Clearchus to death in breach of his oath perhaps tells us more about Tissaphernes' reputation as a perjurer (see §12.3) than the strength of this part of the oath ritual![23]

One final ritual sealed all important interstate agreements – the act of writing it down. Writing oaths down made them valid for the Greeks.[24] An Athenian decree from 363/2 outlining an agreement between Athens and Iulis on Ceos reads, "so that the oaths and the alliance…should become valid (*kyria*), the generals of Iulis should inscribe the oaths and alliances on a stele and set it up in the temple of Apollo".[25]

Inscribing oaths made for a permanent (or at least durable) record of them, not only making them valid, but also easier to point to and police.[26] The importance of the writing is also made clear by one of the earliest interstate agreements, the sixth-century treaty between the Eleans and "Erwaoioi" (Heraeans?),[27] dated between 550 and 500 BC (ML 17). The document includes an explicit warning that "if anyone injures this writing, whether private man or magistrate or community, he shall be liable to the sacred fine herein written". The fact that the inscribed stelae were typically set up adjacent to temples clearly points to the role that the gods will play in policing the oaths of the participants.[28] Presumably this was one of the

23 For a discussion of this oath see §12.3.

24 Lateiner (2012, 160) suggests that the pains Herodotus takes to make it clear that various Near Eastern peoples recorded their oaths by means of the scars or blood generated by a sacrifice suggests that he was aware that the Greek practice of inscribing oaths on stone or bronze was by no means universal.

25 Thomas 1989, 46.

26 Adcock & Mosley 1975, 222.

27 Heraea is located in western Arcadia. Dubois (*SEG* xxxv 378) suggests that the treaty involved not Heraea, but rather Eua in the Thyreatis. For the sake of clarity we will use the name "Erwaoioi" throughout.

28 Steiner (1994, 66) argues that "divine proximity not only reinforces the 'charge' carried by the inscribed column but also guarantees the preservation of the material record by elevating it to the rank of sacred property: to violate the

reasons why so many copies of peace treaties and alliances were set up at sites of Panhellenic significance such as Olympia and Delphi.

Steiner sees the inscribing of the oath on stone or bronze as a magical second "cutting". Just as the oath sacrifice and the oath itself were "cut", the inscription which recorded the oath was also "cut" when "the mason engraved in stone the verbal formula together with the treaty's clauses".[29] But the cutting of the oath into the stone could be undone. According to Xenophon (*Hell.* 6.3.19), Agesilaus threatened to "wipe out" (*exaleiphein*) the names of the Thebans from the list of swearers to the King's Peace. Agesilaus told the Thebans "that he would change no part of what they had sworn to and signed in the first place; but if they did not wish to be included in the treaty, he would strike out their names if they so directed". Once given the words cannot be altered – but they can be declared null and void.

This episode and other similar cases make it clear that the erasing of the oaths was just as crucial as the inscribing. Adcock & Mosley note that "the clearest method of signifying an unequivocal abrogation [of an oath] was to tear down the pillar on which it was inscribed".[30] A clear example is Demosthenes' demand (16.27) that the Megalopolitans destroy (*kathairein*) the stele outlining their alliance with Thebes in order to show that the alliance is no longer valid.[31] Steiner argues that stelae were destroyed when it might become "a public embarrassment" to have them on show.[32] An excellent example is Philochorus' assertion (*FGrH* 328 F 55) that the Athenians voted to destroy (*kathelein*) the stele recording the Peace of Philocrates after they broke with Philip of Macedon in 340. After accusations and counter-accusations of oath-breaking, the Athenians clearly felt sufficiently aggrieved (and confident) to tear down the pillar on which the treaty with Philip was inscribed.

But destroying the whole stele or even merely parts of the wording was not always an option as the case of the Peace of Nicias demonstrates. According to Thucydides (5.56.3), Alcibiades convinced the Athenians to inscribe a clause at the bottom reading "the Spartans had not abided by their oaths" (*ouk enemeinan hoi Lakedaimonioi tois horkois*). It is intriguing that the Athenians preferred to keep the stele bearing the oath they believed the Spartans to have broken on display for all to see rather than tear it

consecrated goods would be to commit an act of desecration, to risk retribution from the gods…"

29 Steiner 1994, 65.

30 Adcock & Mosley 1975, 223.

31 Thomas 1989, 51–4.

32 Steiner 1994, 71.

down. Perhaps the difference between the Peace of Nicias and the Peace of Philocrates is the fact that in the latter case both Philip and the Athenians agreed that the oaths had been broken, albeit with each believing the other at fault (see §9.7).

The fact that some stelae were still standing more than half a millennium after they had obviously lapsed demonstrates the symbolic importance of documents recording oaths. In order to see why this might be the case it is worth bearing in mind the fact that Plato describes a mythical rite whereby the kings of Atlantis ritually "anointed" the letters of the stelae that recorded their oath to make judgements according to the laws with sacrificial blood. According to Plato (*Crit.* 119c-120b), the ten rulers each led a bull to be sacrificed "up to the pillar and cut its throat over the top of the pillar, *raining down blood on the inscription*. And inscribed upon the pillar, besides the laws, was an oath which invoked mighty curses upon them that disobeyed". When they had made their sacrifice according to their laws they swore "to give judgement according to the laws *upon the pillar* and to punish whosoever had committed any previous transgression; and, moreover, that henceforth they would not transgress any of the writings willingly, nor govern nor submit to any governor's edict save in accordance with their father's laws". It is not inconceivable that Plato is describing a ritual that was similar to those taking place in the *real* Greek world and not just the mythical world of Atlantis. At the very least it points to the magical connotations writing could have in Classical Greece.[33] After all, can there have been any more magical writing than an oath or a curse?

8.2 Gods invoked

Oath-takers were ultimately accountable to the gods whether swearing on behalf of themselves or their state. But in interstate oaths the choice of gods as witnesses has considerable significance when it comes to the role of oaths in generating trust. Although we are not blessed with a wealth of information regarding the identity of the deities invoked in interstate oaths a consistent pattern emerges from the source material. Zeus was regularly invoked, not only in his capacity as the father of the gods, but also as Zeus Horkios (the guarantor of oaths), and as a sky-god.[34] Other deities who

33 Steiner (1994, 70) writes, "for all its fantastic setting and fairy-tale atmosphere, the rite that the kings have conducted looks toward actual historic practice".

34 Cole (2004, 71) argues "Every truce required an oath, and Zeus as Horkios, the god of oaths, was always the tacit partner to every agreement".

appear regularly with Zeus include Helios the sun-god, Gaea the earth herself (or sometimes her granddaughter Demeter whose function as a chthonic deity allows her to perform a similar role), Poseidon the god of the sea, and the war deities Athena (often in her more warlike guise 'Areia') and Ares the bloody and brutal war god himself. Together these deities make a potent combination; any infractions can be seen, and acted upon both swiftly and brutally.

The reasoning behind selecting these deities to witness oaths is perhaps best illustrated by the Homeric truce between the Achaeans and Trojans. During the oath ritual Agamemnon prays (*Iliad* 3.298–9):

> Father Zeus…guardian of Ida, most glorious and greatest, and you O Helios, who see and hear all things, Gaea and Rivers, and you who in the realms below chastise those mortals who have broken their oath, witness these rites and guard them, that they be not vain.

Zeus is thus invoked explicitly as the "greatest" god,[35] but also implicitly as a god who will witness events from his vantage point on Mount Ida. Helios is explicitly chosen because his place in the sky makes him all-seeing and all-hearing. Gaea stands for the earth on which the swearers stand, and the Rivers presumably not only represent the earth itself, but also ensure that transgressors will be found out not just on dry land but on water too.[36] The "Nether Avengers against dead perjurers" should undoubtedly be equated with the Erinyes. Their role as chthonic deities points to the Underworld; not even death will protect the violator of this oath, for these Erinyes will pursue the dead man to the Underworld to exact revenge.

Burkert suggests that the "tripartite formula" of sky, earth and underworld invoked here derives from Near Eastern tradition, and argues that the gods are chosen to represent the "entire cosmos".[37] Oaths by Zeus, Gaea, Helios, and Rivers or Poseidon have been interpreted as representing Empedocles' four elements of air, earth, fire and water.[38] Either way the deities chosen can thus be seen to be relevant and awe-inspiring to all those involved in the oath-taking, rather than of only local importance as might be the case with intrastate oaths, such as the

35 When discussing this oath Burkert (1985, 251) argues "Here Zeus is the special god of the Greeks; added to this is the comprehensive invocation of the sun and sky, the earth with its rivers, and the underworld – in other words, the entire cosmos".

36 It may also be a means of bringing in local deities, for the river Scamander (and to a lesser extent the river Simois) have a strong role in the *Iliad*.

37 Burkert 1985, 251, 445 n.8.

38 RO p. 247.

invocation of Aglaurus in the Athenian ephebic oath (§2.3). This 'formula' for covering the cosmos is repeated in several of the extant interstate alliances and peace treaties, albeit without representatives of the Underworld. In such agreements Zeus, Gaea, Helios and Poseidon are often joined by war deities – Athena, Ares, or both. For example, Zeus, Gaea, Helios, Poseidon, Athena, Ares were invoked as witnesses to the alliance between Athens and Cetriporis of Thrace, Lyppeus of Paeonia, and Grabus of Illyria in 356/5 (*IG* ii² 127); Zeus, Gaea, Helios, Poseidon were witnesses to the alliance between Philip and Chalcidice in 357/6 (RO 50). Presumably these deities were thought to have watched with approval when Philip razed Olynthus to the ground after the Olynthians violated their agreement with Philip.[39] The oaths of the so-called League of Corinth (338/7) invoked Zeus, Gaea, Helios, Poseidon, Athena, Ares, and all the other gods and goddesses as witnesses (*IG* ii² 236). The Zeus-Gaea-Helios combination appears again alongside the non-Greek 'Royal Gods' in an agreement between Maussollus and Phaselis from the 360s (*TAM* II, 1–3, 1183, 1–7). This pattern continued into the Hellenistic period, with the Chremonides decree announcing the alliance between Athens and Sparta in the 260s indicating that the oaths were to be sworn invoking Zeus, Gaea, Helios, Ares, Athena Areia, Poseidon, and Demeter (*SIG*³ 434/5).

Zeus, Gaea, Helios, Poseidon et al. had an importance that was unquestionable throughout the Greek world. But because some deities were considered more important in particular states than others, sometimes gods of more local significance would have been invoked. This has considerable import when it comes to interpreting the records (Thucydides 5.47–8; *IG* i³ 83) of the alliance between Athens, Argos, Mantinea and Elis ca.420, which indicate that each state would "swear the oath most binding in his country" (*ton epichōrion horkon…ton megiston*). This phrase suggests that different Greek states would normally handle oath procedures in different ways,[40] and this would surely extend to the gods

39 There seems to have been a tendency for oath exchanges involving the Macedonians and Thracians to invoke Helios. Given that Sophocles (fr. 582) calls Helios "light most revered by the horse-loving Thracians", and that the sun was the emblem of Macedon, this is perhaps not surprising. Intriguingly, though, Herodotus (5.7) observes that the Thracian kings worshipped Hermes above all gods and swore oaths only by him, while the rest of the Thracians worshipped only Ares, Dionysus and Artemis.

40 Bederman (2001, 175) sees this phrase as "a clear recognition that different Greek polities had divergent ratification formalities, often with different forms of solemnities".

invoked to witness oaths.[41] Several Classical Athenian documents refer to the "customary oaths" (*nomima horkia*),[42] and it seems safe to assume that for the Athenians the most binding oath and the customary oath would be one and the same.[43] If the Greeks perceived their own local oath rituals to be the most binding and trustworthy, the obvious corollary is that those conducted elsewhere might be considered less reliable. Plescia claims that in Greek public life:

> The gods had to be local (*enchorioi*) and officially recognized (*nomimoi*), i.e., enjoying the public worship. So, each independent community determined its own local and legal formula (*enchorios kai nomimos horkos*), its own oath-gods (*theoi horkioi*) by whom the citizens had to swear.[44]

We are fortunate indeed then to possess clear information that Athens and Elis, two of the four parties to this alliance, both had a special place (or places) where particularly important oaths were sworn, and both invoked particular gods when doing so. Athens had two customary oath locations, the so-called "stone" (*ho lithos*) by the Stoa Basileios where various magistrates swore their oaths of office,[45] and the *horkōmosion*

41 Adcock & Mosley (1975, 219) argue that "the same deities did not have a similar standing in all states or on all occasions and so different formulas sometimes were used in making invocations".

42 These include the alliance between Athens and Eretria from 394/3 (*IG* ii² 16), the alliance between Athens and Dionysius of Syracuse from 368/7 (*IG* ii² 105), and an alliance between Athens and the Thessalians from 361/0 (*IG* ii² 204). An agreement between Athens and Megara regarding a boundary dispute from 352/1 (*IG* ii² 116) indicates that the arbitrators will swear their "traditional oath".

43 Plescia 1970, 5 equates "local" with "traditional" oaths. Low (2007, 94ff) discusses the meaning of "traditional oaths" (*nomima horkia*) in some detail. She argues rightly (but somewhat irrelevantly) that the majority of treaties specify the form of the oaths, and that there is considerable variation in the form of these oaths. Reading between the lines it seems that Low is misinterpreting "traditional oath" as referring to a particular wording or an oath that is traditional to the Greeks generally. It seems far more likely to mean "traditional" in a local sense.

44 Plescia 1970, 5.

45 See §§3.2, 5.10, 5.13. Archaeologists have unearthed "a huge, unworked stone measuring 0.95 meters by 2.95 meters" outside the Stoa Basileios which they have identified as this stone (Camp 2001, 44, 46 fig.). It has even been suggested that the stone may have been the lintel stone from a Mycenaean tholos tomb, and thus regarded as both royal and sacred. This idea was originally put forward by Vermeule, and is particularly apt for the Stoa Basileios or Royal Stoa. Papadopoulos 2003, 291–2, after noting that "Vermeule's ingenious suggestion has entered Agora lore (without due credit)", argues that if the stone was Mycenaean in origin its reuse would make the link to the past "even more symbolic". Cf. Fredal 2006, 81 who rightly attributes the suggestion to Vermeule.

situated near the Theseum, which was reputedly the place where a sworn treaty (*spondai*) terminated the Amazon invasion (Plut. *Thes.* 27.5–7).[46] The Athenians also had customary gods they invoked in oaths. In the fifth century it was typically Zeus, Apollo, and Demeter.[47] Collectively they could be known as the "oath-gods" (*theoi horkioi*), or the "three gods".[48] In the fourth century the Athenians were known to have sworn alternatively by Zeus, Poseidon, and Demeter or Zeus, Athena, Poseidon, and Demeter. Burkert argues, "hereby appeal is made to the two most important sacral centres in Attica, the Acropolis and Eleusis".[49]

The Eleans on the other hand preferred Zeus to all the other gods (Pausanias 5.13.1). They swore their most important oaths not by the terrifying Zeus Horkios at Olympia as one might imagine, but rather by Zeus in his guise as Sosipolis (City Saviour). In his description of the Elea Pausanias (6.20.3) notes that on the edge of Mt Cronium there was a sanctuary of Eileithyia in which the local Elean daemonic spirit called the Sosipolis receives worship. It was here that the locals swore an oath by Sosipolis "on the greatest occasions" (*epi megistois*). From Strabo (14.1.41) we learn that the god Sosipolis is the child Zeus, the secret (and powerful) male child who will go on to overthrow Cronus. This Zeus is a peculiarly powerful and vengeful god, and is therefore more than appropriate to be invoked in the mightiest oaths.

Given that Thucydides was quoting from an inscription when he describes the alliance between Athens, Argos, Mantinea, and Elis,[50] and that neither he nor the extant inscription record the gods who were to be invoked in this treaty, it seems likely that they were not spelt out in order to allow each state to swear their most trustworthy oaths invoking what were to them the most terrifying deities. It seems likely that the Athenian representatives would have sworn by Zeus, Apollo, and Demeter, perhaps on the oath stone in the *agora*. The Eleans on the other hand, would surely

46 Robertson (1998, 284) argues that "this official-sounding site…surely had some official function before it was carried back in fancy to a treaty between Theseus and the Amazons".

47 See Mikalson 1991, 84.

48 *IG* i^3 244 refers to an oath sworn by "the three gods". The fact that the majority of extant oaths from fifth-century Athens invoked Zeus, Apollo, and Demeter suggests that these three must be the "the three gods".

49 Burkert 1985, 251. A disproportionately large number of Athenians invoke Demeter in informal oaths (Ar. *Ach.* 708–9; *Knights* 832–5, 941–2, 1021; *Clouds* 421, 425–6; *Wasps* 629, 1142; *Lys.* 271, 500; *Thesm.* 225–6; *Frogs* 1221–2; *Eccl.* 662; *Wealth* 64, 364). This is perhaps due to her close connection to Athens via Eleusis.

50 For a recent discussion of Thucydides' epigraphic habits see Lateiner 2012, 176.

have sworn by Zeus in his guise as Sosipolis. It is tempting to think that the Argives would have invoked Hera because of their strong connection with that goddess, but given that the Athenians appear to have shown no particular predilection for swearing by Athena this can only be speculation.

The fact that the Athenians, Argives, Mantineans, and Eleans each swore by their own gods reflected their equal status. Swearing by gods other than one's own could reflect lesser status. A clear example is when the Greek hostage Histiaeus swears an oath to the Persian king Darius invoking "the kingly gods" (*theous tous basilēious*), i.e. the gods of Darius.[51] According to Herodotus (5.106) when Darius learned that Aristagoras had led the Ionians to revolt and had sacked Sardis, he complained to Histiaeus about the fact that the man he had placed in charge in Miletus was leading the revolt. Histiaeus asked to be sent to Ionia so that he might restore the country to peace and deliver Aristagoras into the hands of Darius. He then swore "that he would not take off the tunic he was wearing until he had made Sardo (Sardinia), the largest of the islands, tributary to Darius". Presumably Histiaeus swore by Darius' gods in order to make his oath more trustworthy. He is hardly likely to have chosen them to make the oath less trustworthy! There is no need to assume as some have done that Histiaeus swore by Persian gods in order to commit perjury safely,[52] even though Herodotus goes on to say that Histiaeus was deceiving Darius. For Histaeus does not deceive Darius by breaking his oath. Rather, he swears an oath that is so conditional that it never need be fulfilled. His oath to capture Sardinia comes after this request to be sent to Ionia, and it only applied when (or if) he had settled the affairs of Ionia and handed Aristagoras over to Darius as a prisoner; he did not in fact do these things (and had not sworn to do them), so his oath never became effective, provided he kept his cloak on! It is worth bearing in mind that Herodotus makes it clear that the Persians were well aware of the Greek tendency to swear oaths and equated it with untrustworthiness – Cyrus the Great dismissed the Greeks as a race who stood around in market places swearing oaths and cheating each other (Hdt. 1.153) – so Histiaeus

51 In the Persepolis inscription Darius invokes Ormazd and "the gods of his race". Cambyses also worshipped the "gods of the royal house" (Hdt. 3.65). The Seleucids clearly adopted this procedure for oath-taking, for Seleucus I Nikator swore "by all the gods of his royal house" that he would willingly hand over his new young bride Stratonice to his son Antiochus (App. *Syr.* 317).

52 Burkert (1985, 446 n.28) argues that Histiaeus "swears by the Gods of the Great King in order to break the oath at once". Lateiner (2012, 162 n22) accepts Burkert's argument without question.

would have done well to choose divine witnesses that the Persian king would have understood and accepted.[53]

While it was probably a relatively simple matter for Histiaeus to *choose* to swear an oath by another man's gods, it was quite another matter for one state to *insist* that another state swore by gods that were not their own. But that is exactly what Athens appears to have done at various times in the fifth and fourth centuries. The evidence we possess suggests that when Athens was acting as an imperial power the Athenians often enforced oaths by their "oath-gods" (*theoi horkioi*) – Zeus, Apollo and Demeter – when they were imposing obligations on their renegade allies.[54] Thus the regulations imposed on Erythrae in the 460s or 450s (*IG* i^3 14; 15) were reinforced by an oath invoking Zeus, Apollo and Demeter, as was the agreement between the Athenians and the colonists on Colophon in 447/6 or 427/6 (*IG* i^3 37). It seems that once Athens' allies had rebelled against them the Athenians felt the need to impose not only a new oath of loyalty, but also to invoke the deities the Athenians themselves considered the most appropriate.

One final oath that is worth considering is the treaty between Philip V of Macedon and Hannibal in 215 BC. Although this example dates to the Hellenistic period, it is relevant because Polybius (7.9.2–3) was clearly quoting from an inscription that not only spelled out in considerable detail the wide range of gods invoked as witnesses by the Carthaginians and Macedonians, but also indicated the reasoning behind their selection.[55] The typical division between deities representing the cosmos and war deities is apparent: the list begins with Zeus, later includes Helios, Gaea, and Rivers, and afterwards also the war-god Ares, and "the gods who battle for us". But "local" deities are also invoked e.g. "the gods who

53 Cyrus told a Spartan envoy, "I have never yet feared men who have a place set apart in the middle of their city, where once assembled they deceive each other swearing oaths". Accusing the exceedingly pious Spartans of habitual oath-breaking is doubly insulting considering no Spartiate would be caught dead in the market place! Lateiner (2012, 160 n17) observes, "Cyrus' sneer seems egregiously ignorant, since he directs it at Spartans who themselves sneer at commerce".

54 Plescia (1970, 6) notes, "Athens, when she turned her first league…into an empire, began to impose her oath-gods (*theoi horkioi*) or legal oath (*nomimos horkos*) on her subject allies. This obtrusion might be explained as an attempt to enforce religious allegiance, and thereby give religious sanction to her hegemony".

55 For a detailed analysis of the oath see Bickerman 1944. Bickerman (89) claims that "a glance at the Greek text will convince the reader that the Oath is neither Polybius' own composition nor a literary adaptation of the original document". He concludes on the basis of an exhaustive philological examination that Polybius was quoting from an official translation from a Punic document.

possess Carthage" and "the gods who possess Macedonia and the rest of Greece". Thus the oath reads:

> The oath is taken in the presence of Zeus, Hera, and Apollo: of the *daemon* of the Carthaginians, Heracles, and Iolaus: of Ares, Triton, Poseidon: of the gods that accompany the army, and of Helios, Selene, and Gaea, of Rivers, Harbours, Waters: of all the gods who possess Carthage, of all the gods who possess Macedonia and the rest of Greece, of all the gods of the army that are witnesses to this oath.[56]

Clearly deities of both international and local importance were required to generate the necessary trust between Carthage and Macedon. Together the *potential* of these deities to punish wrongdoers has no bounds, surely making the oath appear more binding.

8.3 Divine punishment

The ritual sacrifice, the libations, the curse, the invoking of divine witnesses was all clearly designed to generate not only trust, but also fear of the gods who had the power to punish those who broke their oaths. That the gods were thought to punish oath-breakers is abundantly clear (see S&T ch. 12); nonetheless modern scholars typically divorce the divine from their discussions of interstate agreements. Thus Bederman observes "it seems clear that Greek rational thought did not usually entertain the notion of divine retribution for breaches of international faith".[57] Likewise, Plescia argues that "it was up to the wronged man to avenge himself".[58] Perhaps such views have been unduly influenced by the suggestion by Socrates in Aristophanes' *Clouds* (398–402) that thunderbolts have nothing to do with Zeus because they smite not only perjurers but also his own temple, Poseidon's sanctuary at Sunium, and the tall oaks; after all, Socrates argues, "an oak does not commit perjury". But Aristophanes' Socrates seems not to represent mainstream thought. For while there is considerable evidence to suggest that the Greeks thought it was acceptable to take matters into their own hands when an oath was broken (see below), the clear message we receive from our sources is that those same Greeks very much feared that the gods could (if

56 It is interesting to note that Heracles is the meat in a Carthaginian-Greek sandwich of "the daemon of the Carthaginians" and Iolaus. When he faces in one direction (so to speak) Heracles is the Tyrian-Carthaginian god Melqart, when he faces the other he is the deified Greek hero!

57 Bederman 2001, 69.

58 Plescia 1970, 4.

not would) intervene if interstate agreements were breached.[59] Why else would the gods be invoked as witnesses in the first place? Herodotus (6.86) provides us with a glimpse into the mind-set of the Greeks vis-à-vis the possibility of intervention by the gods in his account of a dialogue between the Spartan king Leotychides and the Athenians (see on this also S&T ch.10). According to Leotychides, when Glaucus son of Epicydes, a Spartan who lived three generations before the Persian wars, asked the oracle at Delphi whether it would be permissible to steal money left with him on trust by a (false) oath, he received the following response:

> "For now, Glaucus son of Epicydes, you have an immediate profit; to win by oath (*horkōi nikēsai*) and to steal the money; swear, since death awaits even the man who swears well; but Horkos has a child with no name, nor hands, nor feet, but swift in pursuit, until he has in his grasp all a man's offspring and household, which he destroys. But the offspring of the man who swears well shall afterwards be better". When Glaucus heard this, he asked the god to forgive him for what he had suggested. But the Pythia responded that to tempt the god and to do the deed were the same thing.

Fearing the wrath of Apollo, Glaucus then sent for the Milesians and returned the money to them, but it was to no avail. Leotychides explains that there were no descendants of Glaucus, nor any household that bore his name at Sparta in his day. This cautionary tale has considerable bearing on our understanding of Greek attitudes to breaking sworn interstate agreements. For although seemingly a private affair, the story is told in a very public context – namely negotiations between the Athenians and Leotychides who was speaking in support of some Aeginetan ambassadors – and other sources make it clear that the Greeks believed that the gods could assist them when international oaths were broken.

The intervention of the gods is very much apparent in Thucydides' account of the Thirty Years' Peace of 446/5, despite his well-known and much-discussed tendency to obscure religious matters.[60] Thucydides portrays the Spartans going to war confident that the gods will punish the Athenians for breaking their oaths. Thucydides (1.118.3) states that the Spartans decided that the treaty had been broken and consulted the oracle

59 Hunt (2010, 231) observes, "a number of passages show confidence to a greater or lesser degree, that the gods do, in fact, punish states for disregarding the oaths they swore". He cites Thuc. 1.78.4 and Plut. *Lys.* 8 as evidence.

60 For modern discussions of this tendency see Jordan 1986; Hornblower 1992; Flower 2009; Lateiner 2012. Price (1999, 132) notes that "Thucydides' exclusion of the divine from human affairs had few followers. Later historians normally accepted that there was some divine role in the world, but disagreed on the extent and formulation of that role. Xenophon, for example, talks of divine intervention in his own life".

at Delphi to see what to do. The god replied that they would win the war, provided they fought with all their might, and that he would help them whether invoked or not. As a result of this message encouraging the Spartans to go to war the Corinthian envoy to Sparta argues that Apollo considers that the Athenians have broken the treaty. Yet the Athenians appear to have been equally confident that the gods would intervene on their behalf. Thucydides (1.78.4) states that the Athenian envoy to Sparta urged the Spartans not to violate the treaty or to transgress their oaths, but to let their differences be settled by arbitration as stipulated in the sworn treaty. He went on to warn the Spartans:

> If you do not do so, we shall have as our witnesses the gods who heard our oaths. You will have begun the war, and we shall attempt to meet you in every field of action that you may choose.

But the Spartans later regretted their confidence. Thucydides (7.18.2) claims:

> In the former war, they considered, the offence had been more on their own side, both on account of the entrance of the Thebans into Plataea in a time of truce (*en spondais*), and also of their own refusal to listen to the Athenian offer of arbitration, in spite of the clause in the former treaty that where arbitration should be offered there should be no appeal to arms. For this reason they thought that they deserved their misfortunes, and took to heart seriously the disaster at Pylos and whatever else had befallen them.

The Spartans thus reached the conclusion that they had violated the Thirty Years' Peace twice: once when they condoned the Theban attack on Plataea "in a time of truce", and again when they had not responded to the Athenians' request for arbitration, even though the peace treaty stipulated that neither party was to resort to arms to settle a dispute if the other were willing to submit the matter to arbitration. The Spartans' lack of confidence stands in stark contrast to their faith in Apollo at the beginning of the war. Although Thucydides is "unsympathetic and ironic",[61] it is clear that the highly religious Spartans felt that they deserved their misfortune. While Thucydides does not state that the Spartans believed that the gods had acted against them, it does not require a great stretch of the imagination to see them as believing their plight was brought about by the gods through Athenian agency.

Such blurring of the lines between human action and divine intervention can be seen in Xenophon's account (*Hell.* 4.4.12) of the death of a contingent of Argives at the hands of the Spartans during the

61 Lateiner 2012, 178.

Corinthian War. According to Xenophon, when a contingent of Argives became trapped,

> this was certainly an occasion when the god gave [the Spartans] an opportunity beyond anything they could have prayed for. Here was a great mass of their enemies delivered over to them in a state of utter panic, offering them unprotected sides, with no one making the least effort to fight and everyone doing everything possible to ensure his own destruction: what can one call this except an instance of divine intervention?

Xenophon clearly sees the deaths of the Argives as the result of divine intervention, but their destruction is carried out by the Spartans. It is significant that this divine intervention came very shortly after the Argives had massacred many of the wealthiest of the Corinthians out of fear that the Corinthians (then aligned with Argos) might 'laconize'. Xenophon (*Hell.* 4.4.2) condemns this atrocity as "the most sacrilegious of schemes", and goes on to describe how the butchery even took place in temples. Xenophon condemns these acts as a sign that the perpetrators showed "a contempt for religion", and claims that ordinary decent people were repulsed by such impiety. In Xenophon's mind these atrocities led to "divine intervention" (literally a god leading the way), with the gods bringing it about that the Spartans punish the Argives for their impiety.

Xenophon (*Hell.* 5.4.1) claims this happened to the Spartans themselves when they violated the sworn terms of the King's Peace by taking away the freedom of the Thebans in 382 BC:

> Many examples could be given both from Greek and foreign history to show that the gods are not indifferent to irreligion (*asebeia*) or to evil doing (*anosia*). Here I shall mention only the case which occurs at this point in my narrative. The Spartans had sworn to leave the cities independent, and then they had seized the Acropolis of Thebes. Now they were punished by the action of these men, and these men alone, whom they had wronged, although before that time they had never been conquered by any nation on earth; and as for the Thebans who had brought them into the Acropolis with the aim of enslaving their city to Sparta so that they might act as tyrants themselves, it took only seven men from the exiled party to put an end to their government.[62]

62 Lesky (1966, 620) discusses Xenophon's aim in showing that Sparta inevitably fell because of the wrath of the gods due to their violated oath, and asks, "But who would want to compare this with Thucydides' penetrating search for the forces which determine the course of history?". The irony is that while Xenophon could indeed have seen events in the fourth century as panning out due to the same fears and hostilities that blighted the fifth-century Greek world, Thucydides for his part could have seen the Peloponnesian War as brought about by broken oaths.

It is clear that in Xenophon's eyes the Spartans were punished by the Thebans for their oath-breaking, but that the gods too played a role in ensuring that their punishment came to pass – how else would a state that had never been defeated be brought down by seven Theban exiles?[63]

These are by no means the only cases where the lines between divine action and divinely inspired human action could be blurred. It can also be seen clearly in the penalties that are imposed on oath-breakers such as those outlined in the sixth-century agreement between the Eleans and the "Erwaoioi" (ML 17). The text reads:

> The covenant (*wratra*) between the Eleans and Erwaoioi. There shall be an alliance (*sunmachia*) for one hundred years, and this year shall be the first; if anything is needed, either word or deed, they shall stand by each other in all matters, especially in war; and if they stand not by each other, those who do the wrong shall pay a talent of silver to Olympian Zeus to be used in his service. And if anyone injures this writing, whether private man or magistrate or community, he shall be liable to the sacred fine (*epiaroi*) herein written.

Modern scholars point out the absence of oath terms and divine penalties that one would expect to accompany an alliance.[64] But there is an obvious divine sanction – a massive fine payable to Olympian Zeus to be used in his service, and the term "sacred fine" (*epiaroi*) includes the word "curse" (*ara*) within it.[65] While it is true that the document does not state that Zeus will personally intervene,[66] the size and purpose of the fine very much implies that the humans who enforce the oath will have the dread god's backing. Just who would have the right to decide on a breach is not clear. The oracle of Zeus at Olympia would be the obvious choice. But one suspects the stronger of the two "allies" would always find themselves in the right and claim to have Zeus on their side!

It is a short step from expecting the gods to punish religious crimes to taking the law into one's own hands. The blurring of the boundaries between the responsibilities of the gods and humans when it comes to policing oaths is clear in one of the earliest recorded sworn agreements, that between Sybaris and the Serdaioi (ML 10) which dates to (?) 550–525 BC. The text reads:

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63 The fact that seven normal men succeeded where the mythical Seven had failed only serves to highlight the exceptional nature of the events.

64 Sage 1996, 67–8; ML p. 32.

65 ML p. 32 observed that the term "seems to mean 'fine' rather than 'curse' here", but surely the implications would have been clear to the swearers.

66 ML p. 32 argue that "Olympian Zeus will gain from a breach of the treaty, but he will not enforce it".

> The Sybarites and their allies and the Serdaioi made an agreement for friendship, faithful and guileless forever. Protectors (*proxenoi*) Zeus, Apollo, and the other gods, and the *polis* Poseidonia.

The text merely indicates that the Sybarites and Serdaioi will be "friends", but the agreement is clearly akin to an alliance.[67] This agreement is witnessed by Zeus, Apollo, the gods and the city of Poseidonia. The presence of both divine and human protectors (*proxenoi*) is more than significant when it comes to thinking about how sworn agreements were enforced. For there is considerable evidence to suggest that imperial powers often indulged in a kind of "do-it-yourself" punishment with regard to breaches of oaths.

Perhaps the most obvious example is Philip of Macedon's treatment of the city of Olynthus in 348 BC. Philip and the Chalcidians had become allies in 357/6 (RO 50; D.S. 16.8; Dem. 2.7, 6.20), with both parties swearing that they would be allies in accordance with what had been agreed. The full details of the agreement have been lost, but the alliance is said to have been made on the basis that the war against Athens would be conducted jointly and ended jointly, with a special clause stipulating that neither party could negotiate a separate alliance with Athens (Libanius, *Hyp. to Dem.* 1.4). The text of the decree clearly states that both parties should swear "guilelessly and without craft". It also makes it plain that if the oath was broken the consequences would be "much ill".

Philip and the Chalcidians consulted the oracle at Delphi before making this alliance, and were informed that it would be preferable and better to become friends and allies in accordance with the agreement. Copies of the alliance were set up at Delphi as well as in the sanctuary of Artemis at Olynthus and the temple of Zeus Olympios at Dium. The alliance was therefore not only witnessed by the gods, but also actively endorsed by them. But according to Libanius (*Hyp. to Dem.* 1.3) as Philip's power increased the Chalcidians grew suspicious of his strength and daring, and opened negotiations with the Athenians behind his back. Libanius stresses that when the Chalcidians did so they violated their oaths, for the terms of their agreement stipulated that they would make war in common or peace in common if it seemed right. Philip, who had previously desired an excuse for making war on them, accused them of violating the agreement because they were making peace (*philian espeismenois*) with his enemies the Athenians.

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67 Alonzo (2007, 214) interprets this document as an end to hostilities rather than an alliance and therefore makes it (without explicitly stating so) the first securely attested peace treaty. See chapters 9 and 10 below for the complicated nexus between alliances and peace treaties.

Libanius' view of these events fits with that of the hostile Demosthenes, who claims (23.109), "Nevertheless, although so long as they saw that he was not too powerful to be trusted, they were his allies and fought us on his account, now that they have found that his strength had grown too great for their confidence…they have made friendship, and promise to make alliance, with you,—you who of all men in the world would be most delighted to kill Philip's friends or even Philip himself".[68]

By making peace with Athens without Philip, the Olynthians had clearly violated their sworn agreement with him. Philip will have felt free to act against the Olynthians who had knowingly wished upon themselves "much ill" if they broke their oath. They would have expected "much ill" from the gods, but Philip appears to have been more than prepared to take matters into his own hands, capturing Olynthus, razing it to the ground, and selling the inhabitants into slavery. As Hammond puts it, "Philip and his Macedonians felt that they were justified in the sight of Apollo and of Zeus, Earth, Sun and Poseidon in destroying Olynthus for its act of perjury".[69] Few modern scholars have followed him in this, but the fact that Philip immediately took part in the Olympian festival at Dium in celebration of his victory (D.S. 16.55.1) supports Hammond's interpretation. Given that a copy of the alliance was set up in the precinct of Zeus Olympios at Dium this cannot be coincidence. Surely Philip was signalling to all that his victory came with the endorsement of the gods.[70]

Philip's son Alexander the Great appears to have adopted a similar approach when Thebes rebelled against him. Like most of the Greek states the Thebans had sworn to join the so-called League of Corinth, and in so doing had sworn not only to abide by the peace treaty, but also "not

68 Ellis 1994, 748. Ellis ignores Libanius' information, and focuses on Justin's claim (8.3.10) that the Olynthians had incurred his anger by refusing to hand over his half-brothers who had taken refuge with them after attempting to overthrow Philip. It is entirely possible that the Chalcidians were foolish enough to have *both* opened negotiations with Athens *and* harboured Philip's dynastic enemies. If so, they were really asking for trouble.

69 Hammond 1994, 77–8.

70 Squillace (2010, 75) notes that Philip "could demonstrate the righteousness of his action against Olynthus: in the temple of Zeus Olympios anyone could read the agreement signed by him and the Olynthians in 357 BC in front of the gods, an agreement which they had violated in 349 BC, deserving, in so doing, Macedonian retaliation". Perlman (1985, 165, citing Nock 1942, 472 n.2) interprets Philip's ensuring that the alliance had been sanctioned by Delphi as part of a plan "to win Greek public opinion". The subsequent destruction of Olynthus was surely designed to influence Greek opinion, but perhaps in a less "PR-friendly" way.

to overthrow Philip or his descendants" (*IG* ii² 236). The extant sources make it abundantly clear that Alexander gave the Thebans an opportunity to change their minds about rebelling against him (D.S. 17.9.5; Plut. *Alex.* 11.7; Arr. *Anab.* 1.7), but when they met his mildness with abuse and insults Alexander resolved to destroy them. Technically Alexander allowed the council of the Greeks to decide Thebes' fate, but he must have been satisfied with their decision to mete out a punishment identical to that his father had imposed on Olynthus.

Modern scholars typically interpret Alexander's acts as cynical and brutal *Realpolitik* – Alexander wanted to embark on his Asian campaign, and the destruction of Thebes was designed to instil fear in the Greeks.[71] But there is more to Thebes' fate than pragmatism. The Thebans had sworn to abide by the treaty with Philip and that obligation extended to Alexander as Philip's descendant. Moreover all those who were party to the peace were also party to the clause "If anyone does commit any breach of treaty concerning the agreement, I shall go in support as called on by those who are wronged, and I shall make war against the one who transgresses the common peace as decided by the common council and called upon by the hegemon". Alexander and Thebes' enemies were acting in accordance with the oaths of the League of Corinth. Alexander or anyone else who was party to the peace was entitled to go to war against Thebes for breaching the treaty. In retrospect, the Thebans were seen to have angered the gods by their actions. Diodorus (17.10.2–6) claims that a series of divine portents were seen presaging Thebes' fall, including bloodstains on the roof of the Temple of Apollo at Delphi where the Thebans had dedicated spoils from the war against the Phocians, while according to Arrian (*Anab.* 1.9) it was later felt that the Thebans were being punished for past atrocities including breaking the oaths of the Thirty Years' Peace:

> All this was attributed not without probability to the avenging wrath (*mēnis*) of the deity. It seemed as if the Thebans had after a long time suffered this punishment for their betrayal of the Greeks in the Median war, for their seizure of the city of Plataea during the truce (*en tais spondais*), and for their complete enslavement of it, as well as for the un-Greek slaughter of the men who had surrendered to the Lacedaemonians, which had been committed at the instigation of the Thebans…Moreover it was reported that before the disaster many portents were sent from the deity, which indeed at the time were treated with neglect, but afterwards when men called them to remembrance they were compelled to consider that the events which occurred had been long before prognosticated.

71 For example, Green 1970, 147–8; Bosworth 1994, 797; Lonsdale 2007, 52 to cite but a few.

Alexander was thus not only sending a message about what would happen to potential opponents; he was also perceived by some as acting as the gods' instrument in punishing the Thebans. When it came to dealing with forsworn allies it appears to have been a case of like father like son.

8.4 Giving and receiving oaths: who swears?

Interstate agreements required appropriate representatives in order to generate trust. This is perhaps nowhere more obvious than in the making of the truce between the Trojans and the Achaeans, when Agamemnon demands that the Trojans "bid mighty Priam come, that he may swear to the covenant himself; for his sons are high-handed and ill to trust, and the oaths of Zeus must not be transgressed or taken in vain. Young men's minds are light as air, but when an old man comes he looks before and after, deeming that which shall be fairest upon both sides" (*Iliad* 3.105–10). Clearly Agamemnon trusted neither Hector nor Paris to remain faithful to their oaths, and the participation of the older, wiser Priam was required for surety. Furthermore, when Agamemnon made the sacrifice he also "cut hairs from the lambs' heads; this the heralds gave about among the Trojan and Achaean princes (*aristoi*)". Clearly only the best of the Achaeans and Trojans were thought fit to be involved in the oath ritual; the rank and file were not required.

The evidence we possess suggests that circumstances were little different when it came to swearing oaths in the Archaic and Classical periods. Our extant historical sources suggest that the swearers of the oaths sealing interstate agreements tended to be power-holders rather than the rank and file. This might mean kings, generals, chief magistrates, the council, all magistrates, selected representatives, envoys – it would depend upon what was appropriate for each oath-exchange. This comes home clearly in Xenophon's account of the formalizing of the Common Peace of 371 BC. According to Xenophon (*Hell.* 6.5.3) the Athenians "sent out the officers charged with administering the oath and directed them to administer it to the "highest officials" (*megista telê*) in each city. The "highest officials" would have meant different things in different states.

For monarchic states the reigning king would swear. It was not the case e.g. that the Macedonians swore to an agreement with the Athenians, but rather King Philip swore to an agreement with the Athenians. Philip did not swear on behalf of his kingdom, but simply as himself; *l'état, c'est*

lui.[72] Thus when Philip and the Athenians agreed to the Peace of Philocrates in 346/5 the agreement was not valid until Philip himself had sworn his oath to Athenian representatives. The Athenians gave their oaths to Philip's representatives Parmenio, Antipater, and Eurylochus, but despite their obvious seniority they were authorized only to receive oaths on behalf of Macedon, not give them.[73] Because of this, our extant sources for the Peace concentrate largely on the question when and where Philip of Macedon swore his oaths. Demosthenes was particularly incensed that Philip swore his oaths not at Pella but outside a hostelry in Thessaly, and complains (19.158):

> The oaths were administered at the hostelry in front of the Temple of the Twins,—any of you who have been to Pherae will know the place I mean,—at the time when Philip was already on his march towards Athens with his army, and in a manner, men of Athens, that was thoroughly discreditable to the city.

But as an absolute monarch Philip would not have been bound by the same constitutional procedures that would have been observed in cities like Athens.[74] The important point was *that* Philip swore, not *where* he did so. When Philip wanted to remind the Athenians of their sworn agreement he wrote bluntly to the Athenian council, "I gave my oath to your ambassadors" (Aeschines 2.129).

Philip's strength relative to Athens can be seen in the fact that at least two of his predecessors were required to provide other swearers as surety when swearing to alliances with Athens. The clearest example is the fifth-century alliance between Athens and Perdiccas II and his allies, and Arrhabaeus the Lyncestian and his allies (*IG* i^3 89, 25–36 + *SEG* xxv 18).[75] Whereas normal practice appears to be that monarchs swear as the state, it appears that in this particular case the Athenians made the whole Macedonian nobility swear the oath alongside Perdiccas to ensure his loyalty.[76] The list begins with Perdiccas himself, followed by his brother Alcetas, his own son Archelaus, Alcetas' son Alexander, and then no

72 So in 1783 the peace treaty of Versailles involving three monarchic states and two republics was made between "His Britannic Majesty, the Most Christian King [of France], the King of Spain, the United Provinces of the Netherlands, and the United States of America"; and on 3 September 1939, though Neville Chamberlain said on the air that "*this country* is at war with Germany", the royal proclamation issued shortly afterwards said that "a state of war exists between *His Majesty* and Germany".

73 Adcock & Mosley 1975, 220.

74 Mosley 1972, 147.

75 This alliance has been dated variously as 440s or ca.423 or 417–413.

76 Errington 1993, 16.

fewer than 28 other Macedonian noblemen (*basileis*). The terms of the oath are very fragmentary, but it is obvious that Perdiccas and the Athenians are not equal partners in the arrangement, for while the agreement states that Perdiccas and the Athenians are to have the same friends and enemies, it also stipulates that Athens will have exclusive rights to take timber for oars from Macedon, and demands peaceful relations between Perdiccas and Arrhabaeus the Lyncestian. The alliance between Athens and Amyntas III from the 370s (*IG* ii² 102) was sealed by oaths by both Amyntas and his son Alexander, and because the decree breaks off after Alexander's name it is tempting to think that more swearers would have been listed after him as with the alliance between Athens and Perdiccas. Not only does the use of multiple swearers suggest a status difference between Athens and Macedon, the "belt and braces" approach to the oath-takers seems be an attempt to ensure that the Macedonians would abide by these agreements. In view of Perdiccas' repeated changes of side, it does not seem to have worked.

If the king himself could not swear, this was normally (but not always) handled by a trusted representative. The fourth-century decree outlining an alliance between Erythrae and Hermias the ruler of Atarneus (*IErythrae* 9, 12–23) indicates that Hermias and his *hetairoi* would swear "through messengers". Similarly, when the Athenians made an alliance with the Thracian king Sitalces ca. 431 the negotiations were handled by his brother-in-law Nymphodorus. According to Thucydides (2.29) the Athenians made Nymphodorus, who was married to Sitalces' sister, their *proxenos* and summoned him to Athens. Once in Athens, Nymphodorus concluded the alliance between Athens and Sitalces, and also brought about a reconciliation between Athens and the Macedonian king Perdiccas, after which Perdiccas joined the Athenians in an expedition against the Chalcidians. Thucydides concludes, "Thus Sitalces, son of Teres, king of the Thracians, and Perdiccas, son of Alexander, king of the Macedonians, became allies of Athens". All this took place without Sitalces ever coming near Athens.

The sworn truce between the Ten Thousand and Artaxerxes II (referred to consistently as "The King") likewise came about without Artaxerxes' presence. Xenophon devotes much space to the complicated negotiations between Clearchus the commander of the Ten Thousand and Persian "heralds" who represented Artaxerxes. After protracted negotiations involving first Phalinus, a Greek in Artaxerxes' entourage (*Anab.* 2.3.2–10), and then leading Persians, a truce was finally sworn by the satrap Tissaphernes and the nameless "brother of the King's wife" (*Anab.* 2.3.27–9). Clearly it was not appropriate for Artaxerxes to be a party to the oaths in person; his representatives would speak and swear

for him. Rhodes argues that the Greeks thought (incorrectly) that they could deal with the Persians as equals in international relations,[77] but the Persians clearly did not see things that way when it came to swearing oaths. It was Tissaphernes and the King's brother-in-law who dirtied their hands – Xenophon stresses that they "gave their right hands in pledge to the generals and captains of the Greeks" – not Artaxerxes. Whereas treaties with kings such as Philip of Macedon were not binding until the king swore himself, the Persian king was sufficiently powerful that he need never swear at all.

But intermediaries could be rejected. Critobulus of Lampsacus attempted to swear to the Peace of Philocrates between Philip of Macedon and Athens on behalf of Athens' ally the Thracian king Cersobleptes, but was denied the right to do so (Dem. 19.181; Aeschines 2.93). Aeschines states that Critobulus reported to the Athenian assembly that Cersobleptes had sent him and demanded that he should be allowed to give his oath to Philip's ambassadors, and that Cersobleptes' name should be written down in the list of Athenian allies. A motion was submitted to the *proedroi* to the effect that the representative of Cersobleptes should be permitted to join the other allies in giving the oath to Philip, but Demosthenes (in his capacity as one of the *proedroi*) refused to put the motion to the vote. Demosthenes allegedly excluded Cersobleptes on the grounds that "he did not recognise allies who joined only in time to pour the peace libations". One wonders whether Cersobleptes' request could have been so easily dismissed had he been there in person.

At Sparta the reigning kings were clearly involved in oath exchanges. But Spartan kings clearly swore on behalf of the state, not themselves as with Philip of Macedon or other absolute monarchs. One need look no further than the Peace of Nicias for which both the Eurypontid king Agis and the Agiad king Pleistoanax swore on behalf of Sparta along with fifteen other Spartan representatives. The dilution of their power can be seen in the fact that the Phliasians once refused to accept the authority of Agesilaus when it came to negotiating a sworn truce. Although the king was "angered because they treated him as one without authority", he was nonetheless compelled to consult with the authorities at home before the Phliasians accepted his terms (Xen. *Hell.* 5.3.23–4). Even in the Hellenistic period when the Spartan kings were able to acquire more absolute status they would swear to treaties along with other officials rather than in their own name. Thus, the Chremonides decree from the 260s BC (*SIG*^{3} 434/5) indicates that the oaths were to be sworn by the Kings, the ephors, and

77 Rhodes 2008, 14.

the Elders, despite the fact that the Agiad king Areus had at that time achieved such prominence that he had minted coins bearing his own name and his Eurypontid co-king had dwindled into insignificance.[78]

Outside of monarchies, generals were arguably the "highest officials". Generals are frequently prominent as oath-takers. Perhaps the most notable example is the Athenian general Aristides' oath on behalf of his state which formalized Athenian leadership of the newly-formed Delian League (Plut. *Arist.* 25.1). Another clear example of the role generals played in oath exchanges is the Erythraean decree announcing the mid-fourth-century alliance with Hermias the ruler of Atarneus (*IErythrae* 9.12–23) which indicates that the Erythraean generals swore on behalf of the Erythraean state. Their oaths were received by representatives sent by Hermias including the Atarnian generals and messengers (*angeloi*). Generals also swore on behalf of their troops on the field of battle. This is particularly clear in Xenophon's eyewitness account of the alliance between the Ten Thousand and the Persians who had fought for Cyrus. According to Xenophon (*Anab.* 2.2.8),

> while they halted under arms in line of battle, the generals (*stratēgoi*) and captains (*lochagoi*) had a meeting with Ariaeus; and the two parties—the Greek officers, and Ariaeus together with the highest in rank of his followers (*hoi kratistoi*) — swore that they would not betray each other and that they would be allies, while the barbarians took an additional pledge to lead the way without treachery.

In contrast to absolute monarchs, generals swore in the name of their city (or their troops) rather than as individuals.[79] But there must have been some ambiguity about their status,[80] for according to Plutarch (*Arist.* 25.1) after Aristides had sworn to the terms of the Delian League on behalf of Athens he later encouraged the Athenians to act contrary to those terms and bade the Athenians to lay the perjury (*epiorkia*) on him.[81] This ambiguity may lie behind the employment of multiple representatives in oath exchanges when Athens revived her imperial ambitions in the fourth

78 Areus minted coins in his own name, and the Chremonides Decree mentions him by name. His co-king is only mentioned when it is stated that "the kings" will swear the oath. For more on Areus see Cartledge & Spawforth 1989, 28–38.

79 Cole 1996, 240ff.

80 Hunt (2010, 232) argues that "it was unclear whether state representatives could actually swear on behalf of anyone but themselves".

81 According to Plutarch, when the idea of moving the treasury from Delos to Athens was being debated, Aristides argued that it was unjust but advantageous. This must have been well before the treasury was actually moved (or else it is an apocryphal story), for Aristides died ca.467 and the treasury was not moved until the 450s.

century. According to the decree outlining the alliance between Athens and Chalcis from 384/3 (*IG* ii² 34, 35), the oaths were sworn on behalf of Athens by the council, the generals, and the taxiarchs, and the decree announcing an alliance between Athens and Eretria from 394/3 (*IG* ii² 16) states that the Athenian generals, council and cavalrymen would swear on behalf of Athens, while the generals, council, cavalrymen and office-holders (*archai*) will swear on behalf of the Eretrians. It may be that the greater number of swearers was thought to engineer trust via collective responsibility.

The alliance between Athens, Argos, Mantinea and Elis ca. 420 BC mentioned earlier provides good evidence of the range of different oath-takers who could represent states in interstate agreements. Thucydides (5.47.8) lists the swearers as follows:

> The oath shall be taken at Athens by the council and the 'home magistrates' (*hai endēmoi archai*), the *prutaneis* administering it; at Argos by the council, the Eighty, and the Artynai, the Eighty administering it; at Mantinea by the Demiourgoi, the council, and the other magistrates (*hai allai archai*), the Theoroi and Polemarchs administering it; at Elis by the Demiourgoi, those holding the highest offices (*ta telē*), and the Six Hundred, the Demiourgoi and the Thesmophylakes administering it. The oaths shall be renewed by the Athenians going to Elis, Mantinea, and Argos thirty days before the Olympic Games; by the Argives, Mantineans, and Eleans going to Athens ten days before the Great Panathenaea.

Clearly the intention was that not only would the oath-takers for each state swear an oath that would be the most binding possible, but also that the swearers would be the most appropriate oath-takers to represent each state. With this in mind, the identity of the oath-takers for the Peace of Nicias is worth a very brief discussion. Thucydides (5.18.9–5.19.1) provides the following list of oath-takers:

> Those who took the oath and poured the libations for the Lacedaemonians were <Pleistoanax, Agis>, Pleistolas, Damagetus, Chionis, Metagenes, Acanthus, Daithus, Ischagoras, Philocharidas, Zeuxidas, Antippus, Tellis, Alcinadas, Empedias, Menas, and Laphilus; for the Athenians, Lampon, Isthmionicus, Nicias, Laches, Euthydemus, Procles, Pythodorus, Hagnon, Myrtilus, Thrasycles, Theagenes, Aristocrates, Iolcius, Timocrates, Leon, Lamachus and Demosthenes.

Significantly, the majority of the thirty-four oath-takers are otherwise identifiable.[82] On the Athenian side the majority of swearers were prominent political leaders: Nicias, Demosthenes, Laches, Hagnon, Lamachus, Procles, and Leon are all identifiable as generals in the fifth century, while Lampon was a well-known politician and seer (*mantis*). Only

82 For a recent detailed discussion of these oath-takers see Hornblower 2004, 485–9.

Isthmionicus, Myrtilus, Iolcius, and Timocrates are otherwise unknown. The Spartan representatives were likewise notable. The identity of Pleistoanax and Agis is clear; so too Pleistolas who was the eponymous ephor of 422/1; Ischagoras is known to have been an active commander in the north with Brasidas (Thucydides 4.132.2); Tellis should be identified as the father of Brasidas, or as Hornblower suggests, his son.[83] Although we cannot confidently identify any of the other Spartans, it seems safe to assume that they were all prominent power-holders. The deliberate choice of seventeen suggests that the Athenians and Spartans were at pains to ensure that rituals were carried out on equal terms. The choice of well-known political figures suggests that both parties wanted to ensure that the most powerful men in both states were integrally involved in the swearing in order to ensure that the treaty would not fail (for more see §10.5).

It is worth briefly discussing the receiving of oaths. It was not enough for representatives of a state to swear the oath, it was also necessary for the oath to be received by appropriate officials. If both swearers were present e.g. on the field of battle the swearers and swearees would be the same. But in other circumstances specially chosen representatives would have been required to receive the oaths. One need only read the accounts of the Peace of Philocrates to see the important role envoys might play in receiving oaths. Although Aeschines (1.101–3) claimed that any flunkeys (*hypēretai*) could receive oaths, his additional claim that it took "wise" (*phronimos*) ambassadors to achieve what they did in negotiations with Philip makes it clear how much was at stake when receiving oaths or alliance or peace. Their talents can be seen in the fact that Demosthenes allegedly swore an oath by Hestia "that he shared the city's pleasure at sending men of this quality on the embassy, men whose speaking skill and honesty were a credit to the *polis*" (Aeschines 2.45). Equally important was the administering of the oaths by the Athenians and the Athenians' allies by Philip's envoys in the Strategion (Aeschines 2.85). It was as this time that Critobulus of Lampsacus was not permitted to swear to the Peace on behalf of Cersobleptes to Demosthenes' (much later) chagrin.

But it was not only envoys who received oaths. At various times in the Classical period Athens employed special oath commissioners – *horkōtai* – to receive oaths from their allies. Their very title reminds the swearers of their awesome responsibilities, and perhaps even gives them a "magical" quality. The *horkōtai* oversaw the oaths from the Egestans (*IG* i^3 11: 458/7, or 454/3, or 418/7), the Eretrians (*IG* i^3 39: 446/5 or 424/3), the Chalcidians (*IG* i^3 40: 446/5 or 424/3). Furthermore in 424/3 the *taktai*

83 Hornblower 2004, 486.

who assessed the tribute given by Athens' allies swore their oaths of office before the *horkōtai* (*IG* I³ 71). Given the frequency with which Athens employed *horkōtai* in the fifth century, it is significant that there is no evidence that the Athenians employed officials by that name during the early history of the Second Athenian League. We possess numerous documents describing the election of Athenian citizens to receive oaths from Athens' new allies, but there is no evidence that they were referred to as *horkōtai*. Thus the decree outlining the alliance between Athens and Chios from 384/3 (*IG* ii² 34, 35) demonstrates that the Athenians elected five citizens – including a certain Aesimus – to receive the oaths from the Chians. Where fifth-century officials would have been *horkōtai* the five Athenians are merely referred to as "ambassadors" (*presbeis*). For their part, three Chians were sent to Athens to receive the oaths from the Athenian councillors, generals and taxiarchs. The decree from 378/7 outlining the alliance between Athens and Methymna (*IG* ii² 42) under the auspices of the Second Athenian League indicates that the same Aesimus and the Athenian *sunedroi* sent out on the ships would take care that the Methymnaean magistrates "swore like the other allies". Again, there is no talk of *horkōtai*. Similar to the agreement with Chios, the decree outlining the alliance between Athens and Corcyra from 375/4 (*IG* ii² 96) indicates that the Athenians will send either three or five "men" (*andras*) to receive the oaths from the Corcyraeans. Once again there is no hint that these officials were known as *horkōtai*.[84] It is only after Athens develops more overt imperial pretensions in 371 that we have evidence of the use of *horkōtai* during the period of the Second Athenian League. Xenophon (*Hell.* 6.5.3) has the Athenians sending out *horkōtai* throughout Greece to administer oaths as part of Athens' attempt to make the rest of the Greeks agree to a Common Peace under Athenian hegemony. Given that Athens was using an office previously associated with their Empire to attempt to secure the position of dominance in the Greek world that Sparta had recently held it is very tempting to see the employment of *horkōtai* by the Athenians as an overtly imperial act. The *horkōtai* could be seen not merely as a group of Athenian officials who receive oaths from equals, but rather as an imperial force that *imposes* oaths on lesser states.

A seemingly similar group of officials known as the "*horkistēroi*" appears in a mid fifth-century decree (*SEG* li 652) outlining an agreement

84 It is worth bearing in mind that the Corcyraeans were required to invoke the Athenian *theoi horkioi* when they swore their oath. With Athens soon to begin acting in an imperial manner this seems not insignificant given that the Athenians are known to have sworn oaths by more generic deities at other times in the fourth century.

between the Messenians and the Locrians from Naupactus. But unlike the Athenian use of *horkōtai* to receive oaths from followers there is nothing to suggest that *horkistēroi* are not overseeing an agreement between equals. Nonetheless, there is a punitive element to the process. Although the text is too fragmentary to be comprehensively restored, it is clear that the Locrians, the Messenians and a group described as the "[---]atidae" (or perhaps "[--]atides") swore the oath before the *horkistēroi*. A group of officials known as the *iduoi* were to ensure that the oath was sworn or that those not swearing were punished. If they failed to do so, they would pay a fine. Those who refused to swear the oath were also required to pay a fine, thus suggesting that the *horkistēroi* (like the Athenian *horkōtai*) should be seen as imposing an oath rather than merely receiving it.

9 Oaths in alliances

Regardless of who gave and who received them, oaths were central to all alliances (*summachiai*) between Greek states. For Herodotus making an alliance and swearing the oaths are one and the same. On eighteen separate occasions Herodotus refers to the making of an alliance, and each reference includes at least one variation of the noun *horkos* or the verb *omnumi*, and throughout his work Herodotus refers to the obligations as part of an alliance as "according to the oath" (*kata to horkion*).

But modern attempts to understand the place of oaths within alliances have been problematized by the fact that many of our sources – especially Thucydides – display a marked tendency to obscure their significance. Whereas for Herodotus the making of an alliance is all about the oath, Thucydides only mentions the oaths themselves when they are of particular significance, e.g. when the Corinthians complain that the Spartans are not fulfilling their sworn obligations to them as allies (Thuc. 1.71.5). A typical example of Thucydides' methodology comes at 5.30. Having devoted much space to a dispute between the Spartans and Corinthians regarding their oaths which focused in particular on whether the Corinthians would be violating their oaths by making an alliance with Argos, Thucydides blandly concludes the passage with a suggestion by the Argive envoys that the Corinthians "conclude the alliance". Herodotus would almost certainly have written "exchange oaths".

It may well be the case that "Herodotus skimps on the *ipsissima verba*, details that Thucydides unexpectedly provides when he appears to quote treaty oaths and specify oath-takers",[1] but this should not be seen as a sign that Thucydides has a greater awareness of oaths.[2] Thucydides typically

1 Lateiner 2012, 161.

2 Lateiner (2012) contrasts the manner in which Herodotus and Thucydides make use of oaths, arguing (at 157) that "Herodotus cites far fewer civic or inter-polis oaths than Thucydides does (58 to 269, by the Nottingham Oath Project's count). He has a penchant for narrating artfully evaded personal agreements, the pathology of the personal oath. Thucydides' more than quadrupled references reflect his concern for one type, namely, short-lived diplomatic agreements". Unfortunately Lateiner misinterprets how we represented the data in the Nottingham database. Thucydides does record more oath exchanges than

uses the term *summachia* on its own where Herodotus would mention the oaths, and probably avoid the term *summachia* altogether.[3] In stark contrast to Herodotus' *modus operandi* only twenty-eight of the ninety-six occasions when Thucydides refers to the formalization of a *summachia* (slightly under 30%) does he include *horkos* or *omnumi* or their derivatives. Xenophon employs similar terminology to Thucydides. Out of the twenty-eight references to alliances in the *Hellenica* and the *Anabasis* only eight (again just under 30%) mention oaths. By the time we get to Diodorus oaths have almost disappeared from the historical narrative when it comes to the formalization of alliances. But the same cannot be said for the Attic orators who mention the oaths of alliances (as well as those of peace treaties) with considerable frequency. This is perhaps not surprising given how frequently the orators feel the need to remind the jurors of their sworn obligations, and the frequency with which they employ informal oaths as a rhetorical device. It is very tempting to see Thucydides' neglect of the oaths that were part of the formalizing of alliances as part of Thucydides' well-known predilection for obscuring religious matters.

9.1 "We will fight together"

All our sources use the term *summachia*, which means "co-fighting" to describe alliances. This terminology highlights the true nature of these sworn agreements, which at their most basic were an agreement to fight together. Co-ordinating warfare would not have required an oath, but it must have given confidence to those involved in the fighting that they would not be let down by their co-fighters. Jonathan Hall recently suggested that the term *summachos* (co-fighter) "probably arose initially within the orbit of the connections that early archaic élites forged with one another, indicating an *ad hoc* arrangement between individuals or groups of individuals designed to address a specific military need", but

Herodotus, but the more than quadrupled figure is more a symptom of the fact that he mentions the same few oath exchanges (e.g. the oaths of the Thirty Years' Peace of 446/5) many times over rather than a greater interest in the types of oaths involved. Thucydides' statistics are also skewed by the fact that he was writing about events that took place after the development of the sworn truce for collecting the dead (see ch. 11). These account for 40 or so of the references to oaths by Thucydides. If we count only references to alliances where variants of *horkos* or *omnumi* are employed the numbers are Herodotus 18 vs. Thucydides 28.

3 Herodotus uses the term *summachia* only six times when referring to the formalization of an alliance, and not once does he employ the term without using either a variant of *omnumi* or *horkos*.

was later "extended to define other communities that agreed to lend military assistance according to oaths sworn to the gods and the duration of such alliances became more open-ended to cope with potential needs in the future".[4] The evidence we possess does indeed suggest that early alliances were in many respects little more than expanded versions of oaths such as that of the Seven who swore to destroy Thebes or die trying (Aesch. *Seven* 42–8). Indeed, the earliest non-mythical *sworn* international agreement for joint military action is the oath reputedly sworn by the members of the Amphictyonic council at the time of the First Sacred War which is generally thought to have taken place at the beginning of the sixth century.[5] The Amphictyons swore "a mighty oath" that they would "aid the god and the consecrated land with hand and foot <and voice> and every means" (Aeschines 3.109). Unlike later military alliances which were very much secular in purpose, this was an oath to fight on behalf of Apollo and his sacred land when required, and only then. The promise of joint military action is only part of this oath; the Amphictyons also swore that "they would neither work the (sacred) land themselves, nor allow anyone else to do so". Intriguingly, this oath was sworn *after* the Amphictyons defeated the Cirrhaeans, not before, and after they had enslaved them, destroyed their city, and consecrated their land as commanded by an oracle from Apollo. In his earlier speech (a speech that would have benefited greatly from the story provided in the later speech),[6] Aeschines (2.115–16) notes that the Amphictyons had already sworn an oath

> that they would not destroy any Amphictyonic *polis* or bar access to flowing water in war or peace, and would take the field against anyone who broke his oath and destroy his city; and if anyone were to rob the god's property or connive in or

4 J.M. Hall 2007a, 101–2. Similarly, Sage (1996, 66) argues that "for the most part alliances were not only military in nature but directed towards specific military objectives".

5 Although we have no source earlier than Aeschines' speeches *On the Embassy* (343 BC) and *Against Ctesiphon* (330 BC), modern scholars typically accept the overall veracity of Aeschines' information, if not the full details. Supporters of the veracity of the oath and the institution itself note that there are archaizing elements in the oath and the ritual (Faraone 1993, 68), and the fact that the original members are "tribes" not cities (Larsen 1949, 172). Robertson (1978, 38) seems to hedge his bets, noting the "authority" of Wilamowitz (1893) who argued that the First Sacred War was "pretty well the most extensive piece of well-attested military history from such an early time", but also (at 48) making much of the fact that Aeschines is our earliest source.

6 Robertson 1978, 53–4.

> advise any action against the contents of the temple, they would punish him with hand and foot and voice and all their power.[7]

It stands to reason that the Amphictyons attacked the Cirrhaeans in accordance with this earlier oath, but then felt the need to swear an additional oath guaranteeing future military action in the event of a similar transgression. It also seems likely that the later oath was intended to provide a clearer definition of what "robbing the god's property" or "action against the contents of the temple" really meant. By explicitly including provision against tilling land belonging to Apollo, too, the Amphictyons were ensuring this problem would not recur. Not content with this, they added a strong curse:

> If anyone should violate this, city, individual or race, let them be cursed by Apollo, Artemis, Leto and Athena Pronaia. Their land should produce no crops, their wives bear children not like the parents, but monsters, their livestock not produce natural offspring; they should be defeated in war, lawsuits and debates, and they themselves, their households and their race should perish utterly; and may they never offer pure sacrifice to Apollo, Artemis, Leto and Athena Pronaia, and may the gods not accept their offerings.

Any violators would thus run the risk not only of military action by the other Amphictyons, but also punishment by Apollo and Artemis who together strike down men and women with disease, their mother Leto, and Athena the guardian of Apollo's temple. In many ways this "alliance" bears more resemblance to much later peace treaties than other sworn alliances. The promise of punitive action is not designed to facilitate warfare, but to prevent it needing to take place at all.[8]

Conveniently for us, Aeschines notes that he informed Philip that the peoples who swore these oaths were "the twelve tribes (*ethnê*) which shared the shrine" i.e. the Thessalians, Boeotians, Dorians, Ionians, Perrhaebi, Magnetes, Dolopians, Locrians, Oetaeans, Phthiotians, Malians, and Phocians. We know that when the council met every member state sent two sacred envoys (*hieromnêmones*), with the Dorians providing one each from Doris and the Peloponnese, and the Ionians one from Euboea and one from Athens. These regular meetings must have fostered a collective mind-set, and the oaths they swore together would have helped

7 Aeschines tells his fourth-century Athenian audience that he personally informed Philip about the first oath. Aeschines is thus conveniently able to advise Philip that the members of the Amphictyonic council had sworn an oath to do just what Philip had done to the Phocians for their illegal seizure of Delphi.

8 Larsen (1944, 147) sees the Amphictyonic oath as "an effort to apply morality and religion to conduct in war". This is probably the case too, but the oath seems more preventative than punitive.

strengthen that bond. Beck speculates that oaths such as that of the members of the Amphictyonic council were vital in the development of Greek interstate agreements.[9] It may well be that the Peloponnesian vote on the Amphictyonic council lay at the heart of the development of Spartan power in the Peloponnese and the alliance system known to modern scholars as the "Peloponnesian League". As the strongest Dorian state in the Peloponnese the Spartans were accorded a vote on the council. Representing the Dorians in matters relating to Apollo's oracle at Delphi may have given the Spartans the opportunity and impetus not only to lead the Dorian states in war, but also to transform this arrangement into a fully-fledged *Waffenbündnis* or *Bündnissystem*, by demanding an oath from their fellow Dorians to follow them in war, especially given that on at least one occasion in the Classical period the Spartans did lead a massive Peloponnesian army north to defend Delphi against Phocian interference (for more see §9.6).

Given their prominence in the Amphictyonic council, and presumably also their sworn campaign against the Cirrhaeans, it perhaps not surprising to find that the Spartans were one half of the earliest securely-attested sworn alliance involving a Greek state: the alliance they made with Croesus of Lydia ca.560–550. That the two kingdoms would become "co-fighters" is the predominant message from Herodotus (1.69):

> Croesus…sent messengers to Sparta with gifts to ask for an alliance (*summachia*), and he himself instructed them what to say. The messengers came and said: "Croesus, King of the Lydians and other nations sent us. What he says is: 'Lacedaemonians, the god gave me his oracle that I should make the Greek my friend; now, as I understand that *you* are the chief power in Greece, I invite *you*, as the oracle bids; I wish to be your friend (*philos*) and co-fighter (*summachos*), without deceit or guile'." Croesus proposed this through his messengers; and the Lacedaemonians, who had already heard of the oracle given to Croesus, were very glad at the coming of the Lydians, and they made oaths (*horkia*) concerning guest-friendship (*xenia*) and alliance (*summachia*).

Having learned of each other's importance and utility, Croesus and the Spartans thus swore to be friends (literally guest-friends) and co-fighters.[10]

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9 H.C. Beck (*BNP* s.v. "International treaties: Greece") notes, "Of central importance to the development of supra-regional formulas for legal texts and documents were the Panhellenic sanctuaries…and the intensive peer policy interaction, albeit without ever developing into systematic international law".

10 Alonzo (2007, 214) equates the establishment of friendship with the ending of hostilities, and argues that alliances can come only after the ending of warfare. The case of the Spartans and Croesus suggests otherwise. Alonzo's argument also clashes with his own suggestion (at 209) that early Greek communities maintained three types of relationships – "none at all, war, or friendship" – for

The relationship ultimately achieved nothing for either party, for Croesus was soon after conquered by Cyrus of Persia. According to Herodotus (1.77) Croesus instructed the Spartans to send a force to Sardis by a specified date for a joint campaign against the Persians, but before the appointed day came, Sardis itself was under siege. Croesus sent a second request, this time for assistance (1.82), but although the Spartans took immediate steps to comply, by the time they had finished their preparations news arrived that Sardis had been captured and Croesus taken prisoner (1.83).[11]

The earliest Greek alliance preserved on stone – the mid sixth-century agreement between the Eleans and the "Erwaoioi" mentioned above (ML 17, see §8.1) – likewise stresses that the "allies" will fight together. The text begins by outlining that there will be an alliance for one hundred years between the Eleans and Erwaoioi, and stipulates that "they shall stand by each other in all matters, especially in war". The fact that this agreement is described as a "*wratra*" highlights its similarity to early citizenship decrees and military oaths which also highlighted the

surely friendship could follow no relationship more easily than it could follow outright warfare. It is also worth bearing in mind that one of the key examples Alonzo provides to show that the ending of hostilities necessarily preceded the making of friendship is recorded in error. Alonzo claims that the Saite Egyptian ruler Amasis established friendship with Cyrene after a period of hostility, citing Herodotus 2.181, 2.161, and 4.159 as evidence. But his observation relies on a misunderstanding of the facts – Amasis does indeed make gestures of friendship to Cyrene at 2.181, but in the other passages it was the previous pharaoh Apries who was at war with Cyrene, not Amasis, who usurped Apries' throne. Technically Cyrene had been at war with Apries, not with Egypt. Rather than being at a state of war which would require the formal ending of hostilities, Amasis and Cyrene were actually already on the same side so to speak! Amasis clearly swiftly made friends with Cyrene for a Babylonian tablet referring to an unsuccessful invasion of Egypt by Nebuchadnezzar II in 567 (which would be Amasis' year 4) appears to mention Cyrene as already an ally of Amasis. It would have been a logical step for Amasis to ensure peace in the west when confronting a threat from the east.

11 Amusingly, Xenophon (*Cyr.* 6.2.10) managed to avoid the embarrassing scenario of his hero Cyrus being opposed by his other heroes the Spartans by speaking only of Croesus having sent envoys to Lacedaemon "to *negotiate* an alliance". Whereas Herodotus explicitly states that the alliance was agreed, in Xenophon's account, where the story is being told from Cyrus' point of view, nothing is said about whether the alliance was actually made or not. This may be because it had no effect on the course of the war, but it might also be that Xenophon was uncomfortable either with the notion that the Spartans might be presented as having failed to fulfil the obligations of an alliance, or with the idea of having to present his hero and his beloved Sparta as enemies even in name.

importance of fighting together. Although this agreement also imposed a sacred fine "if they stand not by each other", like the agreement between Sparta and Croesus, the oath stops a long way short of a promise to send help to each other.

While these two early sworn alliances were between states of equal status, the earliest recorded alliances in the literary sources tend to be between cities of unequal status. The first such alliance with a secure date is that between Athens and Plataea in 519 BC (Thuc. 3.68.5).[12] This alliance is sometimes seen as "defensive",[13] but this is by no means clear because the wording of the sworn agreement has not been preserved. Certainly the sources appear to hint at a defensive alliance: Thucydides (2.73.3) has the Athenians tell the Plataeans that they will help as they are able, while Herodotus (6.108) says "the Plataeans came to help" the Athenians at Marathon. But Herodotus also states that the Plataeans "gave themselves" to the Athenians and makes it clear that the Plataeans had already attempted to give themselves to Cleomenes and the Spartans. The alliance between Athens and Plataea only came about because Cleomenes advised the Plataeans to give themselves to the Athenians on the grounds that they lived closer to Plataea. This does not bear the hallmarks of a defensive alliance between equals. The Plataeans went to Athens as suppliants, and were placed under Athenian protection. Plataea's status as the junior partner can be seen in Thucydides' account of the siege of Plataea in 429 BC toward the beginning of the Peloponnesian War. Thucydides has the Plataeans request the opportunity to ask the Athenians whether they can accept the terms offered by the Spartans. When the Plataean messengers to Athens made their request, the Athenians told them that they could not break their agreement with Athens and reminded them of the oaths that their fathers had sworn, but went so far as to assure them that they had never abandoned them since they had been allies and they would help them to the best of their ability. The manner in which the Plataeans gave themselves to Athens, and sought their approval to accept Sparta's peace terms, suggests that their relationship when it was first formalized was probably not so very dissimilar to that between Sparta and her early allies. The earliest evidence we have suggests that the Spartans compelled their allies to swear "to follow whithersoever they led" (Hdt. 6.74), which represents an extension of the military-style oath, but

12 Attempts have been made to date this to 509 BC; for example Salmon (1984, 245 n.25) argues that the Spartans were in the vicinity making an alliance with Megara. This solution relies on the assumption of a scribal error, which is of course possible, but not wholly preferable.

13 Bolmarcich 2008, 73.

stops a long way short of an oath to come to each other's aid (see §9.6). When the Plataeans "gave themselves" to the Athenians they probably had done little more (or less) than Sparta's allies did in the sixth century.

The oaths that underpinned the Greek alliance against the Persians in 480 BC were likewise not much more than a military oath. Herodotus (7.148) refers to those Greek states who agreed to fight against Xerxes as "the Greeks who swore against the Persians" (*hoi … sunōmotai Hellēnōn epi tōi Persēi*). There is nothing to suggest that they swore to come to each other's aid – they had presumably merely sworn to fight together. This continued during the war itself. The so-called Oath at Plataea, discussed in the next section, was focused on the imminent battle and its consequences if victorious; those involved swore that they would fight until they died, not desert their leaders (alive or dead), not leave unless ordered to, and bury the dead. Again, this is about fighting together, and there is nothing about defending each other except during the battle at hand. Victory did not change things significantly, and Herodotus (9.106) indicates that even after the final defeat of the Persians at Mycale the Greeks who joined the alliance swore merely "to remain loyal and not desert". These oaths imply a much lighter touch than those imposed by the Athenians on the members of the Delian League who were ultimately required to swear not only to remain loyal, but also to have the same enemies and friends (*Ath.Pol.* 23.5). This innovation would have a significant impact on Greek interstate relations, but the evidence we have strongly suggests that it was not until much later in the fifth century that sworn alliances would be routinely more complex than an agreement to fight together at a particular time.

9.2 The Oath at Plataea (*L.A. Kozak*)

> The oath which the Athenians swore when they were about to fight against the barbarians: "I will fight as long as I live, and I will not regard being alive as more important than being free, and I will not abandon the taxiarch or the enomotarch, whether they are alive or dead, and I will not retreat unless the leaders lead [the army] away, and I will do whatever the generals command, and the ones who die of the allied fighting-men I will bury in the same place and not leave behind anyone unburied. And being victorious in battle over the barbarians I will tithe the city of the Thebans, and I will not destroy Athens nor Sparta nor Plataea nor any other city which fought together, nor will I allow [them] to be coerced by hunger nor will I keep flowing waters from them, whether they are friends or enemies. And if I uphold the terms of the oath, may my city be free of sickness, and if not, may it become sick. And may my city be unsacked, and if

> not, may it be sacked. And may my [land] bear [fruit], and if not, may it be unfruitful. And may women bear children like to their parents, and if not, monsters. And may cattle bear calves like to cattle, and if not, monsters." And swearing these things, covering the sacrifices with their shields, at the sound of the trumpet they made a curse, if any of the oath terms should be violated and if they should not maintain the words of the oath: that guilt-pollution be for the ones who swore it.

The term "Oath of Plataea" refers to the oath taken by the Greek *poleis* in alliance against the Persians before the Battle of Plataea in 479 BC. The evidence for this oath is an inscription on a mid to late fourth century BC stele from Acharnae (RO 88.23–46), and quotations by Lycurgus (*Leocr.* 80–82) and Diodorus (11.29.3), both probably drawing on Ephorus. Sworn by the Athenians, the Spartans, the Plataeans, and unspecified others, it guarantees a broader notion of Greek co-operation against "barbarian enemies". The oath is ambiguous in areas where we would not expect it to be: it sets out the terms of a fighting alliance (which seems to suggest that it is for that purpose only), but it gives no specific indication of which battle or series of battles the alliance will apply to. It refers to benefits and consequences for the cities that follow the oath, but gives no comprehensive account of which cities are swearing and to what exactly they are swearing: oddly, the oath explicitly forbids destruction and implicitly forbids besieging of other allied cities in the future, but allows for general enmity towards them. In doing so, the oath stretches our expectations of normal battlefield alliances, imposing ideal moral behaviour for individual swearers off of the battlefield and into the future. In short, the oath of Plataea as we have it is enigmatic, and its appearance on the Acharnae stele along with the Athenian ephebic oath only serves to deepen scholarly consternation about its implications. [14]

To start, we must think about what we do know about the Battle of Plataea that is, presumably, the occasion of this oath. The Battle of Plataea, the last land battle against the Persians in Greece, took place in

14 Discussion of the Oath of Plataea falls broadly into those who believe the Oath to be an authentic document from 479 and those who don't. The first suggestion of inauthenticity is from the fourth century—see Theopompus *FGrH* 115 F 153, and most modern scholars follow suit including Robert 1938, 293–316; den Boer 1959; Habicht 1961; Robertson 1976; Faraone 1993, 68 n. 34; Flower & Marincola 2003: 323–5; Pownall 2004. For modern scholarly discussions supporting the historicity of the Oath, see Raubitschek 1960 and 1966 and Siewert 1972. RO conclude that the historicity of the oath ultimately cannot be determined, van Wees (2006) thinks that the oath is probably authentic, with roots in the oaths of the Spartan sworn bands (see §2.4), while Krentz (2007a) argues for fifth century authenticity, but that the oath is actually that which was sworn before the Battle of Marathon.

479 BC, and the text of the oath, if genuine, suggests that the appropriate moment for military alliance against a barbarian foe would be immediately preceding the battle itself. But the text of the oath is not clearly referencing that historical moment, and Herodotus makes no explicit mention of it in his account of the lead-up to the battle.[15] What is more, the oath's list of allies is far too short; we know from the Serpent Column that was set up at Delphi (ML 27, see Hdt. 9.81) that there were at least 31 cities taking part in the Battle of Plataea—Plataea is listed fourteenth (see Hdt. 9.28 for a list of combatant *poleis*). With several other cities contributing forces against the Persians at the Battle of Plataea, including larger cities like Corinth and Megara, we must question their omission here, just as we should question the inclusion of Plataea along with the major military and political powers of Athens and Sparta.[16] If the oath is a genuine document from the time of the Battle of Plataea, one would expect it to include all the *poleis* involved. Thucydides also makes no mention of the oath, even though it seems it would have a part to play in the protracted central narrative arc of the Plataeans that his History spins, which does involve the different oath of the Spartan Pausanias to Plataea after the Battle of Plataea (Thuc. 2.71.2–4). It is a strange omission, considering that the Spartan/Theban siege of Plataea, as well as the eventual Spartan destruction of Plataea, make any reading of the Oath of Plataea particularly poignant.

Despite these issues, many other factors point to this oath being a genuine product of the fifth-century conflict with the Persians, though there are several opinions on exactly what the oath's original context was. Siewert's linguistic argument for the fifth century is perhaps the most convincing: he argues that the more abstract term *eleutheros* and the odd *summachesamenōn* point to authenticity and an earlier date, and explains differences from the literary evidence of Lycurgus and Diodorus as the fault of Ephorus,[17] whom both authors were probably quoting as a common source (RO seem to concur with this explanation of a corrupt intermediary source). Van Wees follows Siewert in arguing that the oath belongs to 479, but holds that it reflects more Spartan influence than previously thought, drawing heavily on the oath of the Spartan sworn bands (§2.4). Krentz has argued that the oath is not the Oath of Plataea at all, but rather fits more closely with what we know of the Battle of

15 See §9.6 for the suggestion that Herodotus might be hinting at the Oath of Plataea at 7.235.

16 Can we take Plutarch's explanation for the post-battle Oath for the founding of the *Eleutheria* as an appropriate explanation for this oath? See Plut. *Arist.* 20.2.

17 Siewert 1972.

Marathon. Krentz also starts with the discrepancies between the Acharnian stele and the literary sources, but pushes further. Like Siewert, he looks at the language, and suggests that the participle *summachesamenōn* found on the stele (where Lycurgus and Diodorus have *summachoi*) points to an earlier source, and perhaps indicates less formalisation of fighting alliances. Krentz's argument also addresses the problem of the number of allies, as Athens, Sparta, and Plataea were the only three Greek *poleis* at Marathon (even if Sparta was a day late); but he can offer only a speculative explanation of the pledge to punish Thebes, and his discussion of this pledge (Krentz 2007a, 737–9) does not explain why in 490 the Spartans should have been willing to subscribe to it, nor even suggest that any attempt was made to carry it out. Lastly, Krentz suggests that the stele version's "the ones who die of the allied fighting-men I will bury in the same place and not leave behind anyone unburied", if interpreted as burying on the battlefield, can refer to the famous interment of the soldiers at Marathon.[18] This stands as another weak feature of Krentz's argument, since it is just as likely that the sentence could refer to the burial at Plataea of all the allied soldiers who fell at Plataea, as recounted by Herodotus (9.85). Hall focuses on the line missing from the Acharnian stele but present in the literary versions of the oath, concerning destroyed temples, and concludes:

> It is ultimately impossible to know whether the Greeks collectively swore an oath before the battle of Plataea not to repair their desecrated sanctuaries…[19]

If we turn towards the reception of the Oath in the later part of the fifth century, we might find further insight on what seems an impossible problem.

The Peloponnesian War certainly presented a unique challenge to the Panhellenic sentiment that the Oath of Plataea, if genuine, sought to formalize. With the oath's two main swearers, Athens and Sparta, as the main antagonists in a series of conflicts that would rage over 27 years, and the absolute destruction of Plataea itself, the last quarter of the fifth century challenged forever what 'Greekness' might really be. Perhaps this is why Thucydides gives Plataea a central part to play in his History, marking the Theban night invasion of Plataea in 431 BC as the beginning of the war that he seeks to document, and returning to the Plataean arc at several points throughout his narrative. The Plataeans, allied with Athens, but geographically closer to Thebes (and sharing in their Boeotian dialect), view their city as inviolate through the guarantees of the Spartan leader

18 Krentz 2007a, 737 n. 12.

19 J.M. Hall 2013, ch.4.

Pausanias after the Battle of Plataea (Thuc. 2.71.2–4), but are nevertheless destroyed by the Theban-allied Spartans in Book 3. Much has been written about the oaths involved in the events that led up to the Spartan destruction of Plataea in 427 BC,[20] but I would like to suggest a different reading of the Plataeans' speech at 2.71. The Plataeans bring up the oath that Pausanias made to them, but I think it is possible to consider Pausanias' oath within a series of oaths before and after the Battle of Plataea, which includes the " Oath of Plataea" itself.

> Pausanias the son of Cleombrotus, the Lacedaemonian, after he had freed Hellas from the Medes together with those Hellenes who had been willing to join him in undertaking the danger of the battle that was fought on our territory, sacrificed in the agora of the Plataeans to Zeus Eleutherios, and called all the allies (*tous xummachous*) together, restored to the Plataeans their land and city to hold and to manage autonomously, and <declared> that no one should march against them unjustly or with intent to enslave them, and if anyone did, then all the allies present would defend them as best they could. (Thuc. 2.71.2)

Note that in this account, Pausanias calls "all the *xummachoi*" to swear the oath that guarantees Plataean autonomy. It might seem a paltry piece of evidence, but the phrase here, perhaps not even uttered by Archidamus since we know Thucydides' methodology of reconstructing speeches, nevertheless confirms what we can assume from circumstance: that the allies who fought in the battle of Plataea had already sworn an oath to each other. Archidamus' response also feels ambiguous as to whether or not there was a single oath sworn after the battle, when he cuts in and responds to the Plataeans:

> Just as Pausanias granted to you, rule yourselves, and join in freeing the others, those who shared in the danger then and swore to you, and are now under the Athenians. This mission and this war have been made for their freedom and that of others. And you too should preferably take part in it, and keep your oaths. (Thuc. 2.72.1)

Can we read this as referring to two separate oaths (the plural *horkoi* being a reality, rather than a rhetorical flourish), the one granted by Pausanias to the Plataeans, possibly with the inclusion of the allies,[21] the other an oath sworn between the allies 'when the danger was faced'?[22] It is hard to

20 See West 2003, 438–447; Hornblower, 2007, 146–147; and §2.1.3 above.

21 This suggestion is a weaker form of the argument made by Brunt 1953–4.

22 While Badian reads this as being one oath, he also sees an oath sworn to the other allies enfolded in this oath of Pausanias', claiming: "The oaths to which Aegina is said to have appealed when she secretly complained to the Spartans are ultimately the oaths sworn at Plataea. Megara and Potidaea were protected by those same oaths." (Badian 1993, 116). Hornblower (2007, 138) is less explicit

know, because we do not know the full extent of Pausanias' oath, or if it did indeed include a provision for the freedom of all the allied *poleis* in the same way that our Oath of Plataea does. Nevertheless, I think it is possible that there are two (or more) oaths being referred to, one of which all the allies swore before battle, promising their mutual defence (maybe the Oath of Plataea itself?) and another that was the sworn commitment of Pausanias to the Plataeans after the battle, in front of the other allies.[23]

When we look at the Plataean defence before their destruction in Book 3, it feels again that there are other oaths being implicitly referred to, and that one of those oaths at least might be our Oath of Plataea, at least the version that Lycurgus knows.

> Look at the tombs of your fathers, who died at the hands of the Medes, and whom, buried in our land, we honoured every year with public garment-offerings and other customs, bringing also the first fruits of all the produce that our land yielded, as the friendly people of a friendly country, and as allies to those who once fought at our side. … You will be enslaving the land where the Greeks found freedom, and desolating the temples of the gods to whom they prayed before they beat the Medes (Thuc. 3.58.4–5).

There are three things worth noting in this passage: the first is the interment of the Spartan men on the battlefield at Plataea, which might be the burial referred to in line 30 of the Acharnian Oath. The second is the interesting hapax of *homaichmoi* used here[24] —perhaps suggesting a transition from merely fighting together (*homaichmoi*) to being allies (*xummachoi*), which might refer to the formalization of the relationship between the Plataeans and the Spartans that occurred with the Oath of Plataea. The last point is the appeal to the temples, which may loosely correspond to the clause concerning the barbarian ransacking of temples that exists in the literary versions of the oath and, as Hall notes, has other Greek precedents. Moreover, the mention of prayers performed "before they beat the Medes" might refer to the set of rituals before the battle, and perhaps the oaths themselves. I realize that all of these suppositions are quite tenuous, but in the absence of explicit evidence, I find it reasonable to consider a series of oaths that would have seen the allied *poleis* through

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about the content of the 479 oath, saying only that "the perceived perjury was…the Plataeans should have helped to liberate the Greeks from Athenian oppression because obliged to do by oaths taken in 479".

23 This follows Brunt 1953, 153–4: "…some kind of covenant was sworn at Plataea after the battle. This covenant seems to have affected Plataea alone."

24 This word is extremely rare, but I wonder if it, too, has a looser connotation, as has been suggested about the participial form of *summachomai* in the Acharnian version of the oath.

the main stages of the Persian conflict to the founding of the Eleutheria, and that the Oath of Plataea might be one among them.[25]

Whether or not the Oath can be seen as an authentic document from the Persian War, the implications for the fourth century are perhaps even more interesting than the debates over the exact context and date of the original oath. If we imagine that the stele upon which both this oath and the ephebic oath were found was set up sometime in the mid-fourth century, then we must consider the politicization of memory. Throughout the mid to late fourth century, we have an Athens that is contending with the ascending power of Macedon. The notion, then, of an Athenocentric, Greek alliance against an external "barbarian" power can be seen as one that is clearly aimed against pro-Macedonian factions within Athens itself. Moreover, it speaks to a code of personal conduct which, along with the directives to individual citizens included in the ephebic oath, constructs and reinforces a civic-military citizen body that can be relied upon not only on the battlefield, but in the assembly, to remain loyal to the city.[26] When placed within the framework of these oaths, civic and military hierarchies are not simply institutional (and those institutions are growing more rigid throughout the fourth century), but matters of the utmost ritual and religious significance. One of the most interesting thing about the oaths is the juxtaposition of nods to specific hierarchical political structures (swearing loyalty to the Taxiarch and the Enomotarch) with seemingly archaic elements—this is most particularly true of the curse of bearing monsters that falls upon those who do not follow the oath. This startling blend equates the disruption of specific political orders with the

25 Diodorus, in his recounting of the Oath, also seems to suggest a series of oaths before the battle which in other sources take place partly before and partly after it. He introduces the Lycurgan version of the oath by saying "…it seemed good to the councils of the Hellenes to take sides with the Athenians, and to advance in a single body on Plataea, to fight to the finish for freedom, and to pray to the gods, that if they should win, the Greeks would come in common on this day to hold a freedom contest among the Plataeans. And when the Greeks were assembled on the Isthmus, it seemed good to all to swear an oath about the war, one that would keep the *homonoia* among them, and compel them nobly to stand fast against the dangers. The oath was such … (quotes Lycurgan version)" (D.S. 11.29.1–3). *Contra* Plut. *Arist.* 20 and Herodotus.

26 See Robertson 1976 and Pownall 2004 for discussions of fifth-century historical documents used for fourth-century political reasons; the historicity of these documents is not for me to discuss here. Kellogg 2008, 370 says: "Thus we see an intersection of two interests in the use of such decrees in the fourth century: the need for exhortation and example, embodied in the achievements of the fifth-century ancestors, and the need for legitimating those achievements through the respect that was beginning to attach to written documents."

violent perversion of nature itself, and would perhaps be even more upsetting in the fourth century, where the political order is more clearly defined.

The history of Plataea certainly serves as a daunting example of the correlation between political transformation and physical destruction, since the city was razed to the ground by the Spartans in 427, only to be rebuilt in 386 by those refugees and their families who had escaped to safety elsewhere (mostly to Athens). Whether or not the Oath of Plataea is a genuine document from 479, the oath's simplicity, and even its ambiguity, in being a pre-battle fighting alliance with very few real long-term political provisions, allow for the richness of its later life. As it is transmitted in the fourth century, with the history of all three of its swearers alive in cultural memory, the oath creates a clear paradigm of the intersection of Panhellenism, the behaviour of the *polis*, and the behaviour of the individual, with all its potentials and its terrible failures.

9.3 Anti-deceit clauses

An oath merely to fight together – even a complex one like the Oath at Plataea – left a certain degree of ambiguity, which must ultimately have compromised the extent to which the oaths could generate trust. One mechanism that the Greeks employed to make sworn agreements more trustworthy is what modern scholars often refer to as an "anti-deceit clause".[27] These appear in some of the earliest alliances. As noted above, Croesus offered the Spartans an alliance "without guile or deceit" (*aneu dolou kai apatēs*), while another sixth-century alliance – the *summachia* between Sybaris and the Serdaioi (ML 10) – was said to have been forged "for friendship, faithful (*pistai*) and guileless (*adoloi*) forever".

Such clauses were increasingly common in fifth-century alliances, and were enhanced by the addition of extra qualifiers. Oaths were soon made not only faithfully and guilelessly, but also "without injury", or "justly". The document outlining the alliance between Athens and Leontini from 433/2 (*IG* i^3 54) indicates that both parties swore that they would be allies forever, "guilelessly (*adolōs*) and without injury (*ablabōs*)". Somewhat amusingly given that Perdiccas would switch sides readily and swiftly during the Peloponnesian War, the alliance between Athens and Perdiccas of Macedon which has been dated variously between 449 and 413 BC (*IG* i^3 89) included an oath to be allies "justly (*dikaiōs*), guilelessly (*adolōs*), and without injury (*ablabōs*)". A similar clause was employed in the Peace of

27 Wheeler 1984. For a more recent discussion see Bolmarcich 2007a, 31–6.

Nicias of 422 (§10.5) – both parties swore "I will abide by this agreement and treaty justly (*dikaiōs*) and guilelessly (*adolōs*)" (Thuc. 5.18.9), and the fifty-year alliance between Sparta and Athens which followed a year later was to be made "justly (*dikaiōs*), loyally (*prothumōs*), and without fraud (*adolōs*)".

Despite the obvious failure of such clauses to compel the Athenians and Spartans to keep to their alliance, such clauses remained common in the fourth century. Thus the alliance between Athens, Cetriporis of Thrace, Lyppeus of Paeonia and Grabus of Illyria from 356/5 (*IG* ii² 127) included an oath by the Athenians that "they would be a friend and ally to Cetriporis, and would wage the war with Cetriporis against Philip guilelessly (*adolōs*) and with all their strength as far as possible". A similar clause appears in the oath formalizing the alliance between Athens and Eretria in 341/0 (*IG* ii² 230). Both parties swore that they would abide by the alliance and arrangement justly (*dikaiōs*) and guilelessly (*adolōs*); and if someone went against the land of the Athenians or overthrew the Athenian people, they would help with all their strength as they were able. Ironically, the agreement between Philip II and the Chalcidians from 357 was to be made "without guile (*adolōs*) and without craft (*atechneōs*)". When this and other clauses were violated by the Chalcidians Philip was able to wreak a bloody revenge.

Not surprisingly, these anti-deceit clauses have caught modern scholarly attention. Wheeler conducted a detailed study and concluded that roughly 14% of all inscribed treaties (23 out of 166) included some form of anti-deceit clause. Wheeler sees this as guarding against what he terms "sophistic interpretations" of sworn agreements, such as were allegedly often employed in the context of battlefield truces.[28] In a similar vein, Bederman sees these clauses as an attempt "to develop ways to counteract the possibility of deceit or fecklessness in the subsequent observance of the treaty provisions".[29] Bederman sees the agreement between Elis and the Erwaoioi cited above as "naive as to its enforcement" because there is no clause disallowing guile or trickery. But given that the document notes that "if they stand not by each other, those who do the wrong shall pay a talent of silver to Olympian Zeus to be used in his service. And if anyone injures this writing, whether private man or magistrate or community, he shall be liable to the sacred fine herein written". I would suggest that the agreement is anything but naïve. The

28 It should be borne in mind that we have little in the way of evidence of commitments to a sworn alliance being dodged by a sophistic interpretation of an oath.

29 Bederman 2001, 174–5.

clause meting out punishment to those who fail to abide by the agreement makes it clear that both the Eleans and the Erwaoioi were anticipating possible deceit, and they put a mechanism in place to prevent future trouble. Rather than seeing this agreement as displaying naïveté, it seems better to see this agreement as being more rudimentary than those with an explicit "guilelessly" clause. Both wordings are designed to prevent future trouble. The anti-deceit clause closes a potential loophole – any states flirting with sophistic interpretations of their obligations would risk both human and divine punishment.

9.4 Mutual-defence clauses

The exchanging of oaths to fight together was the most basic form of sworn alliance. This met the need for help in the event of an offensive war. But such agreements were quite vague, and could end up providing little benefit to the parties involved if they were attacked by a third party. Croesus found this to his cost in his alliance with the Spartans. To guarantee help in the event of an attack by a third party more was needed than an agreement to fight together. Given the sheer amount of warfare in and around mainland Greece in the Classical period it is not surprising to find that many fifth- and fourth-century alliances included a clause to provide assistance in the event of an attack. Although modern scholars have often seen alliances with a defensive element as basic or primitive,[30] there is no secure evidence that alliance oaths of this type existed before the mid fifth century.

The earliest securely dated sworn alliance oath with a defensive clause is an alliance between Athens and Rhegium from 433/2 (*IG* i^3 53). The Athenians swore that "as allies they would be trustworthy and just and steadfast and reliable to the Rhegians, and provide aid to them". The next earliest oaths involving defensive clauses are an agreement between Athens' colonists at Potidaea and Aphytis in Pallene in 428/7 (*IG* i^3 62). The Aphytians were granted the privilege of importing grain, and in return swore that if anyone went to war against the Athenian people or the Athenian settlers in Potidaea they would help the Athenians in words and deeds. Similarly, an alliance between Athens and Halieis in 424/3 (*IG* i^3

30 Forrest (1968, 88) when discussing the Peloponnesian League observes: "a primitive alliance is an agreement between two states here and now to attack a third party or to defend each other against an attack". I would argue that while the first clause is 'primitive', being little more than an extension of a military oath, the latter is anything but primitive.

75) records that the Halieis swore that "they would be allies and friends of the Athenians and would be ready to hand over their harbours to the Athenians and would be ready to assist the Athenians to the best of their ability and would abide by their agreements with the Athenians faithfully and guilelessly". Their late appearance in the sources suggests that mutual-defence clauses were a mid-fifth century development.

Another development first attested in the mid fifth century is the alliance for defence only – the *epimachia*. The first attested example of a "defensive" alliance is that between Athens and Corcyra in 434/3 and 427 (Thuc. 1.44; 3.75). According to Thucydides (1.44.1) they made an *epimachia* "that they would defend each other should anyone attack Corcyra or Athens or the allies of either". This is both much more and much less than an offensive alliance to fight together.[31] The Athenians rejected a full alliance on the grounds that it might jeopardize the Thirty Years' Peace with Sparta. After war had broken out with Sparta they upgraded the agreement to a full alliance whereby both parties swore "that they would have the same enemies and friends" (Thuc. 3.75). This new alliance put the Corcyraeans effectively on the same footing as Athens' other allies, the members of the so-called Delian League, each of whom had sworn an oath to "have the same enemies and friends" (*Ath.Pol.* 23.5) (see §9.5).

The utility of defensive oaths appears to be that they would not clash with previous oaths of alliance or peace treaties because the *epimachia* partners would be bound only to defend each other in the event of a hostile attack. This is clearly the case with the *epimachia* between Athens and Corcyra, and it also appears to be the case when the Corinthians made a defensive alliance with Argos in 421 after becoming dissatisfied with the Spartans due to the Peace of Nicias (Thuc. 5.27.2). Although the Corinthians were clearly vexed that the Spartans had made peace and alliance with "the most hated Athenians" and were certain that many of the Peloponnesians felt the same, they were clearly unwilling to swear to a full alliance with Argos because that would violate their sworn agreement to have the same enemies and friends as the Spartans. This is precisely what the Spartans tell them soon after (Thuc. 5.30.1). The Corinthians would later (5.48.2) refuse to join the full offensive and defensive alliance between Athens, Argos, Mantinea and Elis on the grounds that their

31 Adcock & Mosley (1975, 191) argue that Athens' aim was to ensure that Corcyra's significant naval assets would not fall into the hands of the Peloponnesians. The price they had to pay was to promise to defend Corcyra. But at the same time the Athenians were not obliged to help the Corcyraeans in any offensive campaigns.

epimachia was sufficient because it obliged them to defend each other in the event of an attack, "but not to join in any attack". When the Tegeans refused to join Elis, Mantinea, and Corinth in breaking with Sparta the Corinthians realised that they were going to be isolated (Thuc. 5.32.3–4) and "turned their thoughts back to Sparta" (Thuc. 5.48.3). Clearly the making of a defensive compact with Argos had not automatically nullified their agreement with the Spartans, or else the Corinthians would surely have anticipated greater difficulties in returning to the Spartan fold.

Although modern scholars tend to see the idea of an *epimachia* as a short-lived mid-fifth-century phenomenon,[32] we do have evidence for other defensive-only alliances. One that has been hitherto overlooked has considerable bearing on this discussion. According to Xenophon (*Cyr.* 3.2.23) the Armenians and Chaldeans – both subjects of Cyrus the Great – swore an oath that "they will be friends, be free from one another, have the right of intermarriage and mutual tillage and pasturage in each other's territories, and have a defensive alliance (*epimachia*) in case anyone should injure either party". The fact that this arrangement was said to have been brought about with the explicit approval of Cyrus who was the overlord of both peoples confirms that such defensive alliances were not perceived as clashing with existing oaths. Thus the Armenians and Chaldeans who are subjects of Cyrus can make an alliance to defend each other from attack, provided of course that the attack does not come from Cyrus himself.

Philip of Macedon accused Athens of negotiating an *epimachia* with Persia in the late 340s. At the time Athens was both at peace and in alliance with Philip due to the Peace of Philocrates which had been sworn in 346/5. But because Philip had made his intentions to go to war against Persia quite clear a defensive alliance between Athens and Persia created a tension similar to that between Corinth and Sparta in the 420s when

32 Sage (1996, 67) claims the *epimachia* as attested only "for a short time in the late fifth century", which is not entirely true. De Ste. Croix (1972, 328) argues that the terms *epimachia* and *epimachein* are rare, citing Thuc. 1.44.1, 5.27.2, 48.2; Arist. *Pol.* 1280b 27, and [Dem.] 12.7. Operating well before one could search the *TLG* database online, he wisely conceded the possibility that "there may possibly be a few others"! Andrewes (Gomme, Andrewes & Dover 1970, 23) argued that from the late fifth century onwards new alliances were normally defensive in form and that therefore the specialized term *epimachia* was no longer required. But Andrewes misses the distinction that Thucydides makes between the two types of alliances. Certainly most alliances after the middle of the fifth century included a defensive clause where they previously had not, but those same alliances also typically included offensive clauses too.

Corinth made an *epimachia* with Sparta's arch-enemy Argos. Philip wrote to the Athenians ([Dem.] 12.7):

> You have shown your contempt for right and your hostility to me by actually sending an embassy to urge the king of Persia to declare war on me. This is the most amazing exploit of all; for, before the king reduced Egypt and Phoenicia, you passed a decree calling on me to make common cause with the rest of the Greeks against him, in case he attempted to interfere with us; and today you have such a superabundance of hatred for me that you negotiate with him for a defensive alliance (*epimachia*). Yet I am given to understand that your fathers of old punished the sons of Peisistratus for inviting the Persians to invade Greece. You are not ashamed to do what you have always made a matter of indictment against your tyrants.

This is not an empty complaint, for in 339 Isocrates (12.162) criticized both the Athenians and the Spartans of his own day, by contrasting the fact that the Spartans and the Athenians have been sending ambassadors to the Persian King, courting his friendship and alliance (*philia kai summachia*), with the fact that this had not happened in the time of Darius (I) and Xerxes. But neither Isocrates nor Philip complains that these negotiations are in violation of the Peace of Philocrates. Clearly, the potential *epimachia* with Persia would not on its own count as a violation of the sworn peace treaty that exists between Philip and Athens; only if Athens went to war together with Persia against Philip would it violate the peace. It is a sign of hostility as Philip writes, but not a breach of their oaths.

The blurring of the boundaries between an *epimachia* and a *summachia* can be seen in the alliance between Athens and Chios in 384/3. Although this alliance is referred to as a *summachia*, it is clearly only defensive in function, with the decree announcing the alliance (*IG* ii^2 34/5) stipulating that the Athenians swear "that if anyone goes against the Chians they would go in support as far as possible", and the Chians swear likewise "that if anyone goes against the Athenians they would go in support as far as possible". A full alliance would not have been possible within the framework of the King's Peace of 387/6, which had stipulated that all the Greek states would be free and autonomous, effectively ending the imperial ambitions of the Athenians by compelling them to relinquish all of their possessions except for Lemnos, Imbros, and Scyros. The decree thus makes it clear that both the Athenians and the Chians are taking considerable care to avoid breaching the King's Peace,[33] explaining that

33 Buckler (with Beck, 2008, 81), describes this alliance as "a bilateral defensive alliance within the framework of the peace". RO (p. 86) suggest that this agreement was made "at a time when the Athenians were overawed by the

the Chians "have remembered to preserve, like the Athenians, the peace and the friendship and the oaths and the existing agreement, which were sworn by the King and the Athenians and the other Greeks", and going on to refer explicitly to the stele on which the King's Peace was written, affirming that the alliance with Chios is "not contravening any of the things written on the *stelai* about the peace". Like the *epimachia* between Athens and Corcyra in 434/3, these oaths will not breach the peace treaty unless they bring either party into conflict with other states party to the Peace, and that would only happen if those other parties broke the oaths of the King's Peace.

9.5 Oaths to have the same enemies and friends: the Delian League oaths

Perhaps the most significant fifth-century development in sworn alliances was the oath to have the same enemies and friends. The first attested oath of this kind was that sworn by the members of the so-called Delian League, an alliance system founded under Athenian leadership in 477 and known to our sources as "the Athenians and their allies". In a remarkable development, at some point in the history of the League the Athenians required their allies to swear not only an oath to fight together, but also "to have the same enemies and friends" (*Ath.Pol.* 23.5).[34] Although most modern translations transpose the two terms to read "the same friends and enemies", perhaps owing much to the order of the well-known Greek maxim "help your friends and harm your enemies",[35] Aristotle's text reads "the same enemies and friends" (*echthroi kai philoi*) as do most similar

[King's] Peace but scarcely pleased with it", and that perhaps the Chians advanced the idea that defensive alliances would not be incompatible with the oaths of the King's Peace. Perlman (1985, 160) erroneously sees the Second Athenian League as annulling the King's Peace.

34 Adcock & Mosley (1975, 189) rightly identify this as the first oath of its kind.

35 In this saying friends are typically mentioned first. Thus, Pindar (*Nemean* 2, 83–5) says, "Let me be a friend to my friend; but I will be an enemy to my enemy, and pounce on him like a wolf". Characters in Plato's dialogues (*Rep.* 332d; 335d; *Meno* 71e) urge "do good to friends and evil to enemies". Xenophon's Socrates (*Mem.* 2.6.35) says that "a man's virtue consists in outdoing his friends in kindness and his enemies in mischief", and elsewhere (*Mem.* 2.3.14) that "it is generally thought worthy of the highest praise to anticipate the malevolence of an enemy and the benevolence of a friend". For a detailed study see Blundell 1989.

clauses.[36] It is tempting to interpret this word order which places the emphasis on the enemies instead of the friends as a signal that the alliance was an agreement to fight against enemies just as much as it was an agreement to fight alongside allies.[37] This change would have considerable impact on the course of Greek history in the second half of the fifth century.

Exactly when this came to be the wording of the oaths of the Delian League is not clear.[38] The author of the *Ath.Pol.* (23.5) states that Aristides made the members of the League swear oaths "to have the same enemies and friends" at the very outset, which seems unlikely. For if true, it would make this the first attested oath of its kind by a margin of nearly fifty years. An oath to have the same enemies and friends is fundamentally different from the standard fifth-century oaths to be allies (guilelessly) i.e. to fight together, and other contemporary oaths, such as the oath "to remain loyal and not desert" sworn by the Greeks who joined the alliance against the Persians after Mycale (Hdt. 9.106). The first securely dated reference to an oath to have the same enemies and friends is Thucydides' claim (1.44.1) that the Athenians decided not to make such an arrangement with Corcyra in 434/3, but instead decided to make a defensive alliance. De Ste. Croix sees this passage "as evidence that by the 430s at any rate *the characteristic* form of oath of a *summachia* was 'to have the same friends and enemies'."[39] But this is very far from reality. The earliest evidence for an oath to have the same enemies and friends vis-à-vis Athens is limited to a handful of texts from the 430s and 420s (Thuc.

36 Thuc. 1.44.1, 3.75.1, 7.33.6; Xen. *Hell.* 2.2.20, 5.3.26; Plut. *Pelop.* 27, *Eum.* 12. Various Hellenistic documents have the same formula e.g. *IG* iv² (1) 68; *IMilet* 39; *ISmyrna* 9, 14. A handful of Classical inscriptions use the formula 'friends and enemies' e.g. *SEG* xxvi 461; *IG* i³ 76, 89. Likewise the Hellenistic documents *IC* III ii 5, *IC* II xi 5, and Chaniotis *Verträge* 26, 37. The sole exception in the Classical literature is Xen. *Anab.* 2.5.39. But that particular passage is unreliable, in that the speakers claims the Persians have sworn to have the same friends and enemies when they clearly have not.

37 As Meineck & Woodruff (2007, viii) put it, "Alliances against an enemy…provide a foundation for friendship".

38 Thucydides (1.102.4) tells us only that the Athenians took over the Spartan-led war against the Persians (literally "the alliance against the Mede"). What little evidence we have for that particular alliance suggests that the Greek states had sworn to fight together against the Persians, which would certainly suit the new Delian League and its mission to continue the war against the Persians. Plutarch (*Arist.* 25.1) states that Aristides "bound the Greeks by an oath" (*hōrkise tous Hellēnas*) and took the oath himself on behalf of the Athenians, but provides us with no details of the oath sworn.

39 De Ste. Croix 1972, 298.

1.44.1; *IG* i³ 76 and 89), aside from the potentially anachronistic *Ath.Pol.* reference. The only other fifth-century references we have to oaths to have the same enemies and friends relate to the oaths sworn by Sparta's allies, and these again date to the mid fifth century at the absolute earliest (see §9.6), which suggests that a clause to have the same enemies and friends is a later fifth-century innovation. If the Athenians did organize an oath to have the same enemies and friends in 477, it was a highly innovative approach.

Meiggs argues that the original formulation of the Delian League oath would have resembled the Persian War period oath "to remain loyal and not desert", and that an oath to have the same enemies and friends was a later reformulation. This is entirely plausible given that the author of the *Ath.Pol.* was writing so much later than the events he described, and the fact that an oath of loyalty is remarkably similar to the oaths that the Athenians would later impose on allies who rebelled against them, such as that imposed on the Erythraeans in the 450s; the Erythraeans swore they would "not desert the Athenian masses nor the allies of the Athenians" (*IG* i³ 15).[40] While Meiggs's solution has not received much in the way of scholarly support,[41] the fact that oaths to have the same enemies and friends are not securely attested until the middle of the fifth century should serve as cause for caution when reading the *Ath.Pol.* and lends much weight to his suggestion.

Both clauses of the oath gave the Athenians much power over their allies. Although the Delian League was nominally an alliance system of equals who met and voted in a synod, the reality was that by handing themselves over to Athenian leadership the members of the Delian League had effectively surrendered control of their own foreign policy to Athens. Many allies found that out the hard way when they tried to leave the alliance. Thucydides (1.98.4) bluntly tells us that recalcitrant allies "were enslaved" (*edoulōthē*).

What Thucydides does not tell us is that oaths played a crucial role in that enslavement. In fact, Thucydides fails to mention the oaths of the Delian League altogether. But the oath was vital. First, defecting allies were violating an alliance that would have been permanent once the iron lumps that accompanied their oaths had been dropped into the sea. When Naxos, Thasos, and later Mytilene rebelled because they wanted to leave

40 Meiggs 1972, 45–6.

41 In a recent discussion of the Delian League oath Rhodes (2007, 22) at least implies that the Herodotean formula was part of the Delian League oath. But this is a rare exception in modern scholarship.

the alliance, they were technically in violation of these permanent oaths.[42] The harsh punishment meted out by the Athenians can thus be seen as another case of human beings doing the gods' dirty work in policing oaths. Secondly, the Athenians made liberal use of new oaths when punishing the renegades. As Raaflaub puts it:

> For decades, Athens also enslaved rebellious allies, not literally but politically. After their defeat, every citizen had to swear an elaborate oath of allegiance to Athens that ended with the words "I shall obey the People of the Athenians" – an unmistakable indication of their servitude.[43]

By making their allies swear new oaths of obedience the Athenians were clearly trying to use oaths proactively in an attempt to ensure their loyalty. In the 450s the Athenians imposed democracy on Erythrae and compelled the Erythraeans to swear an oath of loyalty. The regulations imposed on Erythrae by Athens (*IG* i^3 14) stipulate that the members of the newly democratic Erythraean council should swear:

> I will deliberate as best I can for the Erythraean people and the Athenians and their allies, and I will not rebel against the Athenians or their allies, neither on my own initiative nor persuaded by anyone else, nor will I receive back any exiles, of those who fled to the Medes, without the permission of the Athenians and the people; I will not banish those who remain in Erythrae without the permission of the Athenians and the people; if any Erythraean kills another Erythraean he shall be put to death if he is judged guilty; if banishment is the sentence he shall be exiled from the Athenian alliance and his property shall be confiscated; if someone is caught betraying the city to tyrants he shall be put to death, both he and his children unless they report him to the people; his children shall receive half his property and the rest shall be confiscated.

Another fragmentary document (*IG* i^3 15) indicates that the Erythraean councillors were also expected to swear before the commander of the Athenian garrison on Erythrae that they would obey the decisions of the Athenians, and in 447/6 the Colophonians were compelled to swear:

> I will do as much good as I can for the Athenian people and the colony, in action, word, and counsel; I will not rebel against the Athenians in word or deed, neither of my own volition nor by persuasion; and I will not subvert the democracy at Colophon, either from within or in emigration, and according to

42 Meiggs (1972, 46) notes, "Athens was formally justified later when she rejected, perhaps with approval of the allies, Naxos' demand to leave the League".

43 Raaflaub 2007, 111. See also Meiggs (1972, 579–82), Mattingly (1996, 375–6), and Rhodes (2007, 22–3) for discussions of the use of oaths as a means of control within the Delian League.

> this oath I shall be steadfast, guilelessly and without injury, by Zeus, by Apollo, and by Demeter.[44]

The citizens of both Chalcis (*IG* i³ 40) and Eretria (*IG* i³ 39) were forced to swear a remarkably similar oath of loyalty in either 446/5 or 424/3, which included clauses forswearing the possibility of rebellion or the harbouring of rebels, and clauses guaranteeing the payment of tribute, the provision of assistance to Athens when required, obedience, and being "the best and truest possible" ally. For their part the Athenians swore an oath guaranteeing privileges to the Chalcidians (and probably also to the Eretrians), but *only* provided they obeyed the Athenian people.

The Athenians continued this policy even after the Archidamian War. In 422 they required the Bottiaeans to swear an oath that "they would be friends and allies to the Athenians faithfully (*pistōs*) and guilelessly (*adolōs*); would consider their friends and enemies to be the same as those of the Athenians; would not aid the enemies of the Athenians in any way; and would not bear malice on account of the past" as part of the terms of their reconciliation. In return the Athenians swore that "they would defend the Bottiaeans in the alliance without guile (*adolōs*) and zealously according to the agreed terms and would bear no malice on account of the past" (*IG* i³ 76). Again the goodwill of the Athenians depended upon the Bottiaeans keeping their oath.

The Athenians were clearly attempting to use oaths to ensure their allies toed the line. But Thucydides tells us nothing of this. His omission of the oaths becomes even more obvious in his account of the warfare between the Samians and the Milesians (1.115). Once again, Thucydides makes oaths take a back seat. According to his account,

> in the sixth year of the truce [i.e. the Thirty Years' Peace of 446/5], war broke out between the Samians and Milesians about Priene. After having the worst in the war, the Milesians came to Athens with loud complaints against the Samians. In this they were joined by certain private persons from Samos itself, who wished to revolutionize the government. Accordingly the Athenians sailed to Samos with forty ships and set up a democracy; took hostages from the Samians, fifty boys and as many men, lodged them in Lemnos, and after leaving a garrison in the island returned home.

44 This oath (like several others) employs a formula that would ordinarily be described as an "informal oath" – *nē ton Dia* etc. Cole (1996, 238) argues that such statements would not have had legal standing, but the use of informal oaths in interstate agreements tends to suggest otherwise. It may be that such an informal oath by Ariston led to the deposition of Demaratus as illegitimate. See Bayliss 2009, 251.

As far as Thucydides would have us believe, Athens intervenes in Samos because of political infighting, and the opportunity of replacing an oligarchic regime with a democracy. Innuendo and scuttlebutt blamed Pericles' Milesian mistress Aspasia for persuading him to go to war (Plut. *Per.* 24.1, 25.1). But an obvious justification for the Athenians to intervene would be to police an oath to have the same enemies and friends.[45] As noted above, the first securely dated oaths to have the same enemies and friends date to the mid-fifth century, and the author of the *Ath.Pol.* believed the members of the Delian League swore such an oath. All we need is an appropriate time for this oath to have been sworn by the members of the Delian League in the mid fifth century. The obvious time for the Athenians to require their allies to swear such an oath is the formalization of the Thirty Years' Peace, for the treaty clearly defined both friends and enemies for each side (Thuc. 1.35), and lists of allies were attached to the stele.[46] Otherwise the treaty would have been almost unworkable. Another key clause stipulated that each side was to keep what it possessed at the date of the conclusion of the treaty (Thuc. 1.140.2). Surely this was the obvious time for the Athenians to require their allies to swear to have the same enemies and friends as Athens and each other. Such a safeguard would have given the Athenians security against the possibility of being dragged unwittingly and unwillingly into a war by the actions of her allies.[47] A similar oath by the Spartans and their allies would have certainly been required too. How else would the peace have functioned?

If the Samians had sworn an oath to have the same enemies and friends as the Athenians, they would have violated that oath by going to war with their allies the Milesians. Thus their punishment would be seen by many to be a just outcome. But such an interpretation of the political events would not suit Thucydides' style of reporting. By keeping oaths out

45 Lewis 1992, 143 sees the Athenian intervention in the fighting between Samos and Miletus as relating to the oath to have the same friends and enemies. So, too, Meiggs 1972, 46.

46 Thucydides (1.40.2), in an apparent citation from the treaty's text, refers to the "unregistered cities" which were not part of the treaty. On the basis of this passage de Ste. Croix (1972, 293) argues that the existence of lists is "guaranteed".

47 De Ste. Croix (1972, 293) argues that "a 'revolt' by an ally on either side and its reception into alliance on the other side might well lead to an immediate claim that the receiving side had broken the treaty, even before any actual hostilities took place". Salmon (1984, 286) argues that the reason Athens rejected a full alliance with Corcyra and instead concluded an *epimachia* was to avoid "giving Corcyra the right to commit Athens to war against Corinth".

of the picture Thucydides removes the excuse the Athenians have for punishing their recalcitrant allies. While in keeping with his well-known tendency to obscure religious matters from his history, it also does little credit to his homeland.

When the Samians capitulated in 439/8 they were compelled to swear that they would act, speak and counsel in the interests of the Athenian people to the best of their ability and that they would not rebel against the Athenian *dēmos* or its allies by word or deed, and would be loyal to the Athenian people. For their part, the Athenians swore that they would act and speak and deliberate rightly towards the Samian people to the best of their ability in accordance with the agreement made between themselves and the Samian magistrates (*IG* i^3 48). The loyalty the Samians displayed to the Athenians for the next thirty-five years was long remembered by the Athenians, but it would be naïve to see this as evidence that the oath was especially effective. Fear of further punishment by Athens would surely have been just as effective a deterrent!

Bolmarcich sees the oaths that Athens imposed as a case of Athens allowing her allies a modicum of autonomy. She observes:

> Greek diplomacy acknowledged inequalities between states and incorporated them into the very language of oaths, and also attempted by this means to permit to independent states in alliance with one another a degree of that freedom and autonomy so precious to the Greeks.[48]

But it is the autonomy of a subordinate that the Athenians are allowing their allies. The Athenians make this clear during the lead-up to the terminating of the Thirty Years' Peace when they bluntly tell the Spartans "we will leave the cities autonomous, if autonomous we found them when we made the treaty, and when the Lacedaemonians grant to their cities an autonomy not involving subservience to Lacedaemonian interest, but such as each severally may desire" (Thuc. 1.144.2).[49] Clearly only some of Athens' sworn allies are autonomous, and in their opinion none of Sparta's allies are. By the time this speech was made the Spartans had demanded a similarly strict oath of obedience from their allies. It was an oath that Sparta would police with great vigour, especially when it had not been strictly adhered to by her followers.

48 Bolmarcich 2007a, 32.

49 The Thebans would make a similarly blunt criticism of the lack of autonomy within the Spartan orbit at the time the oaths ratifying the King's Peace of 387/6 were sworn (see §10.7).

9.6 "The Lacedaemonians and their allies" – the oaths of the Peloponnesian League

The *Bündnissystem* known to our sources as "the Lacedaemonians and their allies" was probably the earliest such grouping in the Greek world.[50] Until recently there had been a scholarly consensus that this grouping was a strictly organized coalition – the so-called "Peloponnesian League"[51] – with Sparta's allies all bound by an oath to follow the Spartans whithersoever they might lead. But this scholarly consensus has unravelled. Kennell recently observed:

> In the heady positivist days of the early to mid-twentieth century, general scholarly agreement prevailed about the Peloponnesian League: it was a defensive/offensive alliance of states that met regularly in assembly, where a majority vote was binding except in cases of religious prohibitions, and required all new members to swear a binding oath to have the same friends and enemies as the Spartans and to follow wherever they might lead. But in the last decades, a rather different picture has emerged, that the League was more a collection of states loosely connected to Sparta, perhaps by individual oaths, which met in assembly only when a major offensive was being planned, and whose members had considerable freedom of action, to the extent where powerful states like Corinth and Thebes might chastise or pressure their hegemon.[52]

This change in thought has impacted on our understanding not only of the *Bündnissystem* as a whole, but also the oaths that bound the allies to Sparta and indirectly to each other. The only firm evidence we have for

50 Cartledge (1987, 9) argues that the League was "a *Bündnissystem*, a system of alliance, though not a *Staatenbund* or league". Cartledge was following de Ste. Croix (1972, 104) who advocates employing German terminology because "it is richer than English in technical terms for this sort of thing". He argues that the Peloponnesian League could be described as "something less than a 'Bundesstaat' (a Federal State) but more than a mere 'Waffenbündnis'…in fact as a 'Staatenbund', or at any rate a 'Bündnissystem'. The reconstruction of the oath of the League suggested here will see the system as somewhere between a *Waffenbündnis* and a *Bündnissystem* during its early years, and developing into a fully-fledged *Bündnissystem* in the mid fifth century.

51 Cartledge (1987, 13) rightly sees the name "Peloponnesian League" as a misnomer, on the grounds that it was neither limited solely to the Peloponnese, nor a League (*koinon*), borrowing from Voltaire's famous dismissal of the Holy Roman Empire as neither holy, Roman, nor an empire (*ni saint, ni romain, ni empire*).

52 Kennell 2010, 51. Where previous scholars had seen a League proper, Cartledge (1987, 9) went so far as to claim that "it is indeed possible to query whether the League ever had anything that might usefully be called a 'constitution', in…any period down to its effective dissolution in the mid-360s".

the oath is quite late. Xenophon (*Hell.* 2.2.20) indicates that the defeated Athenians swore in 404 to have "the same enemies and the same friends as Sparta and to follow Spartan leadership in any expedition Sparta might make by land or sea", and (*Hell.* 5.3.26) that the Olynthians agreed in 379 "to consider the same enemies and friends as the Spartans, to follow the Spartans wherever they led and to become an ally". These two passages bear considerable resemblance to a tenuously dated inscription (*SEG* xxvi 461),[53] which records an oath by the Aetolians to "follow the Spartans whithersoever they may lead by land and by sea, to have the same friend and enemy as the Spartans, not to effect any termination of the war without the permission of the Spartans, … not to receive any exiles who have participated in illegalities, and if anyone shall lead an expedition with warlike intent against the Spartans, to help them with all their strength according to their ability".[54]

Until recently, it was the norm to see this oath as one that Sparta imposed on all her allies,[55] and the clause "to follow the Spartans whithersoever they might lead" was sometimes seen as a "primitive formula" onto which the more "modern formula" to assist each other was "grafted".[56] But with the League now seen as more "loosely organized" by most scholars,[57] an oath to follow the Spartans has come to be seen as too strict for the early years of the alliance. This is apparent in three recent revisionist studies which have sought to lower either the date of the clause obliging allies to follow the Spartans, or of the oath as a whole. Cawkwell has redated the full oath to the mid fifth century, arguing that in the sixth century there were only "defensive" agreements.[58] Reacting to and against

53 Peek dated the text to 500–470 in the *editio princeps*. This was accepted by Kelly (1978 = *SEG* xxviii 408), but Cartledge (1976) opted for the 420s (this is followed by Strauch, *BNP* s.v. "Aetolians, Aetolia"), and Bolmarcich (2008) argues for as late as the early fourth century.

54 Based on the translation in Cartledge 1976.

55 De Ste. Croix (1972, 108) argued "I believe it was *always* a standard oath, applying to all states which entered the Peloponnesian League". Hornblower 2008, 68, calls this the "orthodox" view.

56 De Ste. Croix 1972, 108, 111 (quotations from ML 67 bis).

57 Bolmarcich (2008) divides scholars into the "strictly organized" and "loosely organized" camps. Rhodes, *BNP* s.v. "Peloponnesian League" argues "Some recent studies warn against seeing the Peloponnesian League as a fixed organisation before the middle of the 5th cent…and it seems likely that it was never highly organised at any time".

58 Cawkwell 1993, 374–6. Cawkwell (1993, 371 n.35) claims that the defensive agreements were "the primitive formula of the sixth century", and criticizes de Ste. Croix for advocating "the inverse of the truth".

Cawkwell's suggestion, Yates has opted for a specific date of 451 (the year of the Five Years' Truce) for the introduction of the oaths, arguing that before then Sparta did not have sworn allies, but supporters bound by the dominance of their internal politics by Spartan partisans.[59] More recently, Bolmarcich has downdated the oath to the end of the Peloponnesian War, arguing it is "not the oath of the Peloponnesian League, but of imperial Sparta".[60] All three views stem from a perception that the Spartans are so demonstrably weak when it comes to policing the behaviour of the Peloponnesians before the middle of the fifth century (particularly the Corinthians), that the oath cannot have included such strong terms until a much later date.

But each of these revisionist views is fundamentally flawed from the outset in assuming that oaths to have the same friends and enemies or oaths with defensive clauses are more primitive than an oath to follow. For whereas defensive clauses and oaths to have the same enemies and friends are not attested until the mid fifth century, we possess strong evidence of sworn agreements "to follow" that is securely dated to the late sixth and early fifth centuries. The strongest evidence conclusively linked with the Spartans is Herodotus' statement (6.74) that after King Cleomenes was forced to flee Sparta ca.491 he attempted to bind the Achaeans to him in an alliance by making them swear "to follow whithersoever he led". Bolmarcich argues that this passage does not confirm either its existence before the 490s or its widespread use.[61] But there are other contemporary agreements including orders to follow.[62] Herodotus (9.66) indicates that the Persian general Artabazus ordered his troops to "follow him where he should lead them, whatever they might think his intent to be", has the Aeolians agreeing to follow the Ionians' lead (1.151), and even casts the Athenians as threatening to make an alliance with Xerxes and to follow wherever the Persians might lead (9.11). Given that such agreements were known in the late archaic period, and that we have unassailable evidence that the Spartans did impose such an oath on their allies at a later period, it seems most likely that Cleomenes was attempting to impose upon the Achaeans an oath that he was accustomed to receiving from subordinates in his former role as Spartan king.

Given that early Greek alliances were typically a sworn agreement by two states to fight together it would be best to interpret an oath to follow

59 Yates 2005, 65, 71–2.
60 Bolmarcich 2008, 65.
61 Bolmarcich 2008, 67.
62 De Ste. Croix 1972, 110.

the Spartans as little more than an agreement to fight together with the Spartans *when they wished to lead*. Like other early sworn agreements it is an *offensive* oath rather than a defensive one, but one that acknowledges Sparta as the leader of any joint campaign. Given that there is no evidence to suggest that the Spartans imposed either an oath to have the same enemies and friends or a mutual-defence clause until the mid fifth century at the earliest, it will be argued here that the known clauses of the oath the Spartans imposed on their allies should be split into two distinct phases:

1. an *offensive* oath to follow the Spartans whithersoever they might lead (this would apply only when they chose to lead, and the evidence suggests that this was a relatively infrequent phenomenon until the mid fifth century at the earliest);
2. a later renewal of this oath, but now with additional *defensive* clauses to have the same enemies and friends and to help the Spartans should anyone invade their territory (and vice versa).[63]

There must have been a reciprocal oath by the Spartans to lead their allies in war. Given that the Spartan citizens had almost certainly sworn an oath to fight until they died, this was a good bargain for both sides.

This approach sees the oath as changing from a somewhat loose offensive-oriented agreement to lead and follow (when required) to a stricter arrangement to have the same enemies and friends and to defend each other in the event of an enemy attack. The turning point will be shown to be the Thirty Years' Peace between the Athenians and the Spartans, which required both sides to define not only what they "possessed" but also their allies. To demonstrate this it will be necessary to address two misconceptions that lay at the heart of modern revisionist views of the *Bündnissystem*:

1. a perceived dearth of evidence for early Spartan allies;
2. a perception of Spartan weakness in controlling the activities of their allies when they do appear in the sources.

In order to counter these misconceptions the following discussion will demonstrate evidence for an early oath to follow, and that there is no evidence of significant changes to that oath until the mid-fifth century.

63 The approach advocated here is somewhat similar to that of de Ste. Croix (1972, 108–11) in seeing the oath to follow as the oldest part of the oath.

9.6.1 The origins of the *Bündnissystem*: "I will follow whithersoever the Spartans may lead"

Despite arguments to the contrary,[64] there is clear early evidence for allied campaigns led by Sparta, which are consistent with an oath to follow. First, Herodotus' account (9.26) of the dispute between the Tegeans and the Athenians over the right to hold the left wing of the allied army at Plataea makes it clear that there had been numerous Peloponnesian campaigns prior to 479 BC fought under Spartan leadership. The Tegean spokesman reminds the Spartans "we have fought many (*polloi*) battles which turned out favourably for you, Spartiate men", and that "we have always been thought worthy of this place in the line out of all the allies (*summachoi*), as often as there have been *expeditions made in common by the Peloponnesians*, both of old (*to palaion*) and *recently* (*to neon*)".

Herodotus (5.74) provides clear evidence of one such Spartan-led Peloponnesian campaign in 506 BC. Somewhat ironically, the existence of Sparta's sworn allies is confirmed by the fact that they refused to follow the Spartans into battle. According to Herodotus, the Spartan king Cleomenes gathered a large army "from all the Peloponnese", but did not declare his purpose, leaving his allies – most notably the Corinthians – unaware of their destination. Cleomenes' force penetrated Attica as far as Eleusis, where they were joined by the Boeotians as part of a pre-arranged plan.[65] At this point in proceedings the Corinthians came to the conclusion that they were not acting justly, changed their minds about the invasion, and returned home. Then Cleomenes' co-king Demaratus left too. There were clearly other allied contingents present, for Herodotus claims that when "the other allies" (*hoi loipoi tōn summachōn*) saw that the kings were not of one mind and that the Corinthians had left, they too departed. Frustratingly he provides no details as to the identity of these allies.

Herodotus (6.92) provides evidence of another Spartan-led joint campaign, this time against Argos ca. 494, when the Aeginetans and the Sicyonians provided transport ships and took part in the fighting. Herodotus explicitly states that the Argives complained that the

64 Yates 2005, 66.

65 The role of the Spartans as leaders of this expedition is nowhere more obvious than in the fact that the allies have no idea of the purpose of their venture, as opposed to the Thebans – who are not yet allies of the Spartans – who arrive at the field of battle by prior arrangement.

Aeginetans "landed to attack them along with the Lacedaemonians",[66] and that "men from the Sicyonian ships" accompanied the Spartans and Aeginetans in the fighting, while Pausanias (3.4.1) clearly states that the Spartans collected an army of Laconians and "their allies" for the campaign.[67] Some modern scholars doubt that Aegina was a Spartan ally given that Cleomenes "compelled" the Aeginetans to provide ships, but it is inconceivable that the Spartans could have just turned up at Aegina, then the strongest naval power in the Aegean, and demanded ships.[68] It would be far simpler to see Cleomenes verbally compelling the Aeginetans to fulfil their sworn obligations to follow him. It is likely that the Aeginetans objected to being required to follow the Spartans against the Argives with whom they had a prior connection,[69] and needed to be convinced to oblige their hegemon. There is no hint whatsoever from Herodotus that the Sicyonians needed to be coerced to supply ships, or to follow the Spartans into battle.

We can also see that the manner in which Sparta mobilized allied armies from the late sixth century onwards is consistent with an oath to follow. This is perhaps nowhere clearer than in Herodotus' account of the lead-up to the Battle of Plataea in 479 BC. According to Herodotus (9.19) the Spartiate contingent marched out and waited at the Isthmus, and once the rest of the Peloponnesians learnt of this they set off to meet them. Herodotus observes, "seeing that the Spartiates set forth for war, they [the Peloponnesians] thought that it would not be just (*ouk edikaieun*) to be left behind the exodus of the Lacedaemonians". Surely this indicates that they were obliged to follow (i.e. not be left behind) because they had sworn an oath to do so, and that the Spartans were waiting for them to obey their order to follow them into battle.[70]

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66 Without recourse to the passage in question Figueira (1981, 8) argues that the core of the charge against the Aeginetans was their disembarking.

67 Salmon 1984, 250–1

68 MacDowell (1960, 118) suggested that the ships were taken in combat, and that this explained Herodotus' use of the term *anankē*. Figueira (1981, 7, esp. n. 37) has criticized this thesis on the grounds that Herodotus uses the term (7.136) to describe Xerxes' attempt to compel Sperthias and Bulis to perform *proskunēsis*.

69 For the relationship between Aegina and Argos see Figueira 1981, MacDowell 1960, Leahy 1954.

70 The Spartans clearly developed a system over time that formalized the process of following, including the creation of special officers known as *xenagoi* (literally the "foreigner-leaders"), who summoned the allies to follow the Spartans on campaign. Thucydides (2.75.3) attests to *xenagoi* existing as early as the siege of Plataea in 429. Xenophon (*Hell.* 5.1.33) describes how in 387/6 Agesilaus led the Spartan citizen army to Tegea, and "upon his arrival at Tegea he sent horsemen

We also have clear early evidence of a *Bündnissystem* known as "the Lacedaemonians and their allies". Immediately prior to the Battle of Plataea a Spartan envoy tells the Athenians that "the Lacedaemonians and their allies" are prepared to receive the Athenian womenfolk and children and to feed them as long as the war lasts if they agree not to accept the overtures of Mardonius the Persian general and break away from the alliance against the Persians (Hdt. 8.142). The term "the Lacedaemonians and their allies" cannot be a euphemism for the alliance against the Persians as Cawkwell suggests,[71] because at that time the Athenians were an integral part of that alliance. Surely the Spartan envoy would have said "your allies" or "the Greeks" if he really meant the alliance against the Persians. His words would otherwise have been catastrophically insulting to the Athenians, especially since the very existence of the alliance had been called into question by the selfish behaviour of the Spartans and the other Peloponnesians who were building a wall across the Isthmus. Having just bottled up the Peloponnese to the exclusion of the other members of the alliance against the Persians, the Spartan envoy surely means just the Peloponnesians when he talks of Lacedaemonian "allies".

Not only do we have clear evidence that Sparta had many early allies who had sworn an oath to follow them whithersoever they led, Sparta need not be seen as a weak leader of those allies. First, Sparta's strength in relation to her early allies can be seen in the fact that Herodotus (1.68) states that the Spartans had "subjugated" (*katestrammenè*) most of the Peloponnese by the time they made their alliance with Croesus ca.560–550. Although Yates argues that the subjugation was brought about by regime change,[72] the more obvious solution would be oaths of alliance which acknowledged Spartan hegemony.[73]

Secondly, Bolmarcich's suggestion that the fact that Sparta was too weak to have demanded an oath to follow because the Corinthians went "unpunished" for violating their oath to have the same enemies and friends only stands if we assume (as Bolmarcich does) that the Spartans required their allies to have the same friends and enemies at this time.[74]

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hither and thither among the *perioikoi* to hasten their coming, and likewise sent mustering officers (*xenagoi*) to the various cities of the allies".

71 Cawkwell 1993, 375 n.53.

72 Yates 2005.

73 De Ste. Croix 1972, 109. Cartledge (1987, 10) went so far as to cast the oath to follow as a "*Hegemonieklausel*", noting "this clause was a suitable reflection of Sparta's military preponderance…but formally it also robbed the allies of their *eleutheria* or freedom to determine their own foreign policy and so converted them into subjects and Sparta into their *hêgemon* or leader".

74 Bolmarcich 2008, 66.

But in fact, the story provides strong evidence that Corinth was not bound to have the same enemies and friends as the Spartans. Bolmarcich's argument ignores both the fact that any Spartan anger towards the Corinthians is glaringly absent from Herodotus' account, and the equalling telling fact that there is no hint from Herodotus that Corinth was defaulting on a sworn obligation. Yates' solution to these problems is to see the allies as not bound by any oath.[75] But the more obvious solution to both problems is that the Corinthians were bound only by an oath to follow and they were not defaulting on that oath. They had followed the Spartans to where they led (as sworn), and at the point "*when the armies were about to join battle*" they went home. Finding themselves in a position they do not want to be in – Herodotus states that the Corinthians felt that what they were about to do was "unjust"[76] – the Corinthians waited until they had done just enough to technically fulfil their oath to the Spartans before abandoning them. The Corinthians were thus employing a sophistic interpretation of their oath to follow the Spartans of which Cleomenes himself would have otherwise been proud,[77] and could not be punished even if the Spartans wanted to punish them!

The debacle in 506 had demonstrated that Sparta's ability to lead her allies depended on the willingness of the allies not only to follow but also to follow through.[78] The simplest solution would have been to strengthen the oath (e.g. by adding a clause "to fight together with them whenever requested"), but instead, the Spartans attempted to adopt a more collaborative approach. Herodotus (5.91–3) describes how ca. 504 the Spartans sent for envoys from their allies to discuss a joint campaign to reinstate Hippias. Although their allies did not like the proposal, they kept

75 Yates (2005, 68) argues that this proves that the Corinthians were not bound by an oath and criticizes de Ste. Croix for not giving "sufficient weight to the implications of Corinth's withdrawal".

76 It may well be that the Corinthians concluded that it would be unjust because they considered the Athenians to be *philoi*. According to Herodotus (6.89) the Corinthians considered the Athenians to be "close friends" (*philoi es ta malista*) in the early fifth century. This sounds very close to an alliance, which would have been difficult if the Corinthians had sworn an oath to have the same enemies and friends as the Spartans, but not particularly problematic if they had sworn an oath merely to follow them.

77 For Cleomenes' apparent skill in manipulating oaths see Bayliss 2009, 234–5, 248–50.

78 There was also the additional problem that once Demaratus had withdrawn it became hard to claim that "the Spartiates", as a united entity, were exercising any leadership at all. Hence the Spartan decision that in future all campaigns should be led by one king only.

silent about their discontent until the Corinthian envoy, Socles, made a long and impassioned speech against tyranny, begged the Spartans not to reinstate Hippias, and warned them that they would not have the approval of the Corinthians if they did so. After seeing Socles speak so freely, the other allies felt happy to speak their minds, and begged the Spartans not to tamper with a Greek city. Herodotus ends with "so the plan came to nothing".

Bolmarcich sees this "vote" as a sign of the weakness of the Spartans in policing an oath to have the same enemies and friends.[79] Other scholars see this as the beginning of a League which makes decisions based on a majority vote.[80] But neither approach is necessary or justified by the evidence. There is no formal vote, and if we assume that Sparta's allies are still bound only to follow them we get a very different picture of the situation. In summoning their allies the Spartans are effectively acknowledging that they cannot achieve their aims without them. Herodotus has already told us that it was due to freak circumstances that the Spartans were able to topple Hippias in the first place (Hdt. 5.65), and two additional attacks on Attica failed (Hdt. 5.63); one even ended in Cleomenes surrendering to the Athenians and leaving under a truce (Hdt. 5.72). The Spartans do not back down because of a vote – they back down because it is clear that they will not be able to compel their allies to follow them, and they know they will fail if they undertake the campaign alone. The meeting should be interpreted as resulting from the fact that the Spartans have recently found that the oath to follow them has a loophole, and they are trying to avoid a similar situation.[81] Their attempt fails and they back down to avoid losing face.

This is not the only evidence that the allies were not yet bound to have the same enemies and friends. In the 490s the Corinthians assisted the Athenians in their war against the Aeginetans, handing over twenty triremes to the Athenians for the nominal sum of five drachmas apiece (Hdt. 6.89). That one known ally of Sparta was able to help the Athenians against another known Spartan ally should be seen as clear proof that they

79 Bolmarcich 2008, 66.

80 Kennell (2010, 56) notes wryly that this meeting was "an inauspicious way to start what modern scholars have identified as the first known meeting of the Peloponnesian League". Cf. Cartledge 2002, 127; Hooker 1980, 152; de Ste. Croix 1972, 116; Jones 1967, 51; Larsen 1932, 141.

81 Hooker (1980, 152) suggests "their principal aim was probably that of avoiding a repetition of the incident at Eleusis".

were not bound to have the same enemies and friends as the Spartans.[82] As long as the Spartans themselves were not involved in the fighting, the Corinthians would be in no danger of violating an oath to follow the Spartans.

Spartan behaviour during Xerxes' invasion is also incompatible with an oath to have the same enemies and friends. We have already seen (§9.1) that Herodotus referred to the alliance against Xerxes as "the Greeks who swore against the Persians", and the only oath he describes the Spartans as imposing is one "to remain loyal and not desert". But the strongest argument against an oath to have the same enemies and friends is the fact that the Spartans required all their allies to swear an oath to fight to the death prior to the Battle of Plataea (see §9.2). According to Diodorus (11.29.3), the much-debated oath ran as follows:

> I will not hold life dearer than liberty, nor will I desert the leaders, whether they be living or dead, but I will bury all the allies who have perished in the battle; and if I overcome the barbarians in the war, I will not destroy any one of the cities which have participated in the struggle; nor will I rebuild any one of the sanctuaries which have been burnt or demolished, but I will let them be and leave them as a reminder to coming generations of the impiety of the barbarians.

We need not debate the veracity of the Oath at Plataea here. But those who doubt its historicity would do well to note that Herodotus (7.235) does appear to hint at this meeting in his account of the immediate aftermath of Thermopylae. When Xerxes asks Demaratus for advice on his former countrymen, the exiled Spartan king advises Xerxes to occupy the island of Cythera. If he does not, Demaratus warns, "after all the Peloponnesians have taken their oaths to support one another",[83] Xerxes will face tougher battles than the one he has just had. Surely Herodotus' audience would have read between the lines here that Demaratus is foretelling both the Battle of Plataea when he talks of "tougher battles", and also what will turn out to be the Oath at Plataea (rather than the Isthmus as he predicts). The fact that Herodotus fails to mention the oath again later is arguably another Herodotean moment where a significant event is hinted at but not mentioned again.

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82 Figueira (1981, 13) sees this as evidence that Aegina is not a member of the Peloponnesian League. The much easier to justify assumption is that they were both allies of Sparta but not bound to have the same friends and enemies.

83 It is possible that the genitive-absolute phrase *pantōn Peloponnēsiōn sunomosantōn epi soi* means that all the Peloponnesians have *already* sworn together against Xerxes; but given the context, a reference to the future seems more likely. Brunt (1953–4, 136 n.2) puts this passage together with references to the earlier oath of alliance against the Persians, without further explanation.

With the Spartans having just lost a king in a battle in which they were betrayed by a fellow Greek, and having previously been abandoned by their allies because of the relative inadequacy of an oath to follow, it makes perfect sense for them to have imposed a new oath at this stage – an oath that would make everyone commit themselves to the agreement and endure the fighting bravely in what would prove to be the final showdown against the Persians – to make as van Wees puts it, "one giant sworn band".[84] The Spartans had every reason to fear the worst of their allies. The experiences of 506 had shown that their allies might follow their lead but not carry out the fighting until the end. The oath at Plataea can be seen as a temporary measure to generate trust where it was lacking and desperately needed.[85] It was a measure that would have been largely unnecessary had Sparta's Peloponnesian allies already sworn an oath to have the same enemies and friends as the Spartans, or to come to their aid.

9.6.2 Sparta and her allies between the Persian Wars and the Thirty Years' Peace

There is nothing in our sources to suggest that the Oath at Plataea led to any significant changes in the oaths exchanged between Sparta and her Peloponnesian allies. Once the battle was over, the utility of the Plataea oath ended, and Sparta's allies would have reverted to their obligation to follow the Spartans where they led and no more. For much of the fifty-year period between Xerxes' invasion and the outbreak of the Archidamian War – the so-called Pentekontaetia – the Spartans chose not to lead their allies into battle. Although Thucydides wants his audience to see that the Peloponnesian War was brought about by Sparta's growing fear of Athenian power during the Pentekontaetia, his account of that period seldom mentions the Spartans. In his seminal work on the causes of the Peloponnesian War de Ste. Croix pondered why Thucydides was so vague about the key events of the Pentekontaetia when the period was so crucial to understanding the war which followed, and he wrestled with trying to explain Sparta's reluctance to lead armies out of the Peloponnese

84 van Wees 2006, 151.

85 Barron (1988, 604) argues that it was "remarkable, and abnormal…that Pausanias thought it necessary to bind his army in this way". But it is not so remarkable or abnormal when one considers the weakness of the ties that bound the Greeks at the time.

during that period.[86] The answer to both questions lies in the fact that the Spartans were involved in remarkably little of the fighting during the Pentekontaetia; Sparta's allies – particularly Corinth and Aegina – spent much time fighting the Athenians without Spartan leadership or support, as the Corinthians would later make clear to the Spartans when encouraging them to go to war against Athens (Thuc. 1.71).

When commenting on Sparta's inactivity Yates observes that "the actions of the Spartan alliance in the fifth century … produce little confidence that the Spartan alliance was governed by strict defensive obligations".[87] Yates is right to reject the possibility that defensive oaths had been sworn. But he is wrong to interpret Spartan inactivity as a sign that there were no allies who had sworn an oath to follow them. Spartan inactivity at this time is a clear indication of Spartan unwillingness to lead, rather than unwillingness to follow on the part of her Peloponnesian allies. We do not need to look far for reasons for this Spartan unwillingness. In the immediate aftermath of Xerxes' invasion the non-Peloponnesian Greeks rejected Spartan leadership. Thucydides (1.95.6) makes it clear that the allies "would not concede hegemony" to Sparta, and they refused to take orders from Pausanias and his replacement Dorcis before forming a League under Athenian hegemony. Once again the Spartans had been thwarted by allies refusing to follow them in extra-Peloponnesian campaigns, and they had never been particularly comfortable campaigning outside the Peloponnese anyway. After this humiliating turn of events Sparta appears to have withdrawn from wider Greek affairs. For the next few decades they were content to mind their own patch, even to the point of abandoning several of their sworn followers to Athens. The relative vagueness of the oaths that bound Sparta and her allies facilitated this Spartan passivity; with no ties binding them to help their allies in an emergency, or vice versa, the Spartans could remain at home minding their own business for much of the fifth century. Until they were good and ready to lead their allies, no joint action would be taken. It is telling that the Spartans' one entry in wider Greek affairs is a campaign in defence of the Dorian homeland (Thuc. 1.107), an act that may have had more to do with their role on the Amphictyonic Council than anything else. In order to see this clearly it will serve us well to briefly consider the key events in Spartan history between the Persian Wars and the Thirty Years' Peace of 446/5 BC.

86 de Ste. Croix 1972, 50–1, 100.

87 Yates 2005, 69.

Table – Chronology of key events in Spartan history 479–446/5[88]

479	Spartan-led victories at Plataea and Mycale (Hdt. 9.16–88; 9.96–101)
478	Pausanias leads the Greeks against Cyprus and Byzantium before recall to Sparta (Thuc. 1.94)
477	Pausanias' replacement Dorcis rejected by "allies"; Athens forms Delian League (Thuc. 1.95)
476	Leotychides campaigns in Thessaly but is caught accepting bribes (Hdt. 6.72)
475	Debate in Sparta regarding fighting Athens for the hegemony of the Greeks (D.S. 11.50)
470s	Defection of Tegea – Spartans fight *alone* against Tegeans and Argives (Hdt. 9.35)
ca 465	Sparta's alleged secret pledge to assist Thasos against Athens;[89] earthquake strikes Laconia; helot revolt, and siege of Messenians at Ithome (Thuc. 1.101–2)
mid-460s	Spartans seek assistance of Persian War allies against helots (Thuc. 1.102; Plut. *Cim.* 16–17); "Peloponnesian" allies Aegina and Mantinea also help (Thuc. 2.27; Xen. *Hell.* 5.2.3)
ca 462	Spartans dismiss Athenian help; Athens makes alliances with Sparta's enemy Argos (Thuc. 1.102); Argos overruns Mycenae (vying for hegemony in the Argolid) and Tiryns (Hdt. 6.83; D.S. 11.65)
late 460s	Spartans fight *alone* at Dipaea against Arcadians (Hdt 9.35; Isoc. 6.99)
ca 460	Megara "revolts" from Sparta after hostility from Corinth (Thuc. 1.103), and makes alliance with Athens (D.S. 11.79.2); warfare between Athens and Peloponnesians (*but not Sparta*): sea battles at Halieis, Cecryphaleia, Aegina, land fighting in Megarid between Athens and Corinth (Thuc. 1.103–5)

88 Chronology after 460 based on de Ste. Croix 1972, 196.

89 If any source other than Thucydides suggested this it would be dismissed as complete bunkum. Cf. Lendon 2007, 266.

458 or 457	Spartan-led expedition to Doris, which culminates in the Battle of Tanagra (Thuc. 1.107–8; D.S. 11.80);
457	Aegina surrenders to Athens and is compelled to join the Delian League (Thuc. 1.108)
456	Tolmides attacks Gytheum and Sparta's allies Chalcis-in-Aetolia and Sicyon (Sparta does nothing)
456/5	Messenians leave Ithome under a truce, and are settled at Naupactus by the Athenians (Thuc. 1.103)
454	Pericles attacks Sparta's allies Sicyon and Oeniadae in Aetolia (still Sparta does nothing) (Thuc. 1.111)
451	Five Years' Truce between Athens and "the Peloponnesians" (Thuc. 1.112; Plut. *Cim.* 18)
449–447	Spartan and Athenian intervention and counter-intervention at Delphi (Thuc. 1.112)
446	Megara revolts from Athens; Spartans and allies invade Attica (Thuc. 1.114)
446/5	Thirty Years' Peace – both Sparta and Athens define their "possessions" (Thuc. 1.40, 115, 140)

The preceding table clearly shows how seldom Sparta fought alongside her allies during the Pentekontaetia. In fact, the evidence suggests that many of Sparta's "allies" abandoned her for much of the 460s. Herodotus (9.35) claims that the Spartans had five great military victories during this period. According to Herodotus:

> Now the five victories were these: one, the first, was the win here at Plataea. Next, that at Tegea, a victory over the Tegeans and Argives; then the victory at Dipaea over all the Arcadians except the Mantineans; then that over the Messenians at Ithome; and the last one at Tanagra over the Athenians and Argives. This closed the series of the five contests.

Of the four Spartan victories after Plataea two almost certainly did not involve Peloponnesian allies, and both of these were fought *against* peoples whom we would think of as Spartan allies. There is no evidence that Sparta drew upon allied assistance in her victory over the combined forces of the Tegeans and Argives (Hdt. 9.35), and there is nothing to suggest that Sparta received any allied assistance against the Arcadians at Dipaea. While Isocrates' later claim (6.99) that the Spartans who fought at Dipaea stood in a single line due to lack of manpower is almost certainly

an exaggeration,[90] the Spartans must have fought the Arcadians alone if spreading themselves so thinly could be considered in any way plausible. How Tegea and the other Arcadians came to break with Sparta is unknown, but they seem to have been received back by the Spartans relatively easily after Dipaea. If Sparta's allies were not yet obliged to have the same enemies and friends, or to come to Sparta's aid, the ease with which the Spartans received Tegea back into her alliance system is less surprising.[91]

The victory over the helots at Ithome probably did not involve much in the way of Peloponnesian help either. There is no evidence that Sparta's Peloponnesian allies were quick to come to Sparta's aid when the helots revolted after the catastrophic earthquake that struck Sparta ca. 465. We know of the Spartans receiving help only from the Aeginetans and the Mantineans, and both were later to receive special treatment from the Spartans in gratitude for their exceptional help; the Aeginetans were given land in the Thyrea after the Athenians expelled them from their homeland (Thuc. 2.27.2),[92] while Agesilaus later asked for personal dispensation not to lead the campaign against the Mantineans some eighty years later because they had helped his father Archidamus against the Messenians (Xen. *Hell.* 5.3.12). But if Sparta's allies ignored an oath to help the Spartans or to have the same enemies and friends in what was one of the darkest hours in Spartan history, then the Spartans were remarkably generous in overlooking it later on. The strongest indicator that Sparta's allies were not obliged to help comes from the fact that the Spartans called on the Athenians for assistance (see §9.8). That they needed help from Athens demonstrates how inadequate the support from the Peloponnesians had been, surely proving that the Spartans' allies were not yet obliged to defend them.

The fact that a war over boundaries between Corinth and Megara prompted the Megarians to "revolt" from Sparta ca.460 BC and to make an alliance with the Athenians (Thuc. 1.103.4) also counts against the notion that Sparta's allies had sworn an oath to have the same enemies and friends. This war could not have happened without fuss or comment from Thucydides if the Corinthians and Megarians had sworn to have the same enemies and friends. As noted above, Lewis argues that the "Peloponnesian League" did not interpret that clause to mean that allies

90 Buckley 1996, 236.

91 It is tempting to date the much-discussed treaty whereby the Spartans made the Tegeans agree "to throw the Messenians out of the country and not to make them good" to this period (Plut. *Mor.* 292b = Arist. fr. 592 Rose).

92 Yates 2005, 71.

could not fight against each other,[93] but surely the simpler solution would be that they have not yet sworn such an oath at all.

Only the Spartan victory at Tanagra in 457 BC involves a fully allied army, and once again this is consistent with an oath merely to follow the Spartans. When the Phocians made an expedition against the Dorian mother-country the Spartans put together a force of 1,500 of their own troops and 10,000 of their allies. According to Thucydides (1.107.2):

> Meanwhile the Phocians made an expedition against Doris, the old home of the Lacedaemonians, containing the towns of Boeum, Citinium, and Erineum. They had taken one of these towns, when the Lacedaemonians under Nicomedes, son of Cleombrotus, commanding for King Pleistoanax, son of Pausanias, who was still a minor, came to the aid of the Dorians with fifteen hundred heavy infantry of their own, and ten thousand of their allies (*summachoi*). After compelling the Phocians to restore the town on conditions, they began their retreat.

As the Spartans and their allies moved south the Athenians met the Spartan-led forces with their full call-up and the support of 1,000 Argives and additional troops from their other allies, and engaged them at Tanagra in a bloody battle in which the Spartans and their allies were seen to be victorious. Clearly the Spartans had no objection to leading this particular campaign, and the fact that some ten thousand Peloponnesians joined them demonstrates that their allies had no objection to following them. They also had no objection to fighting with the Spartans against the Athenians and the Argives. But afterwards, Sparta became passive once more, suggesting that not much had changed in her relationship with her allies.

Yet both Yates and Cawkwell have seen the period around the Battle of Tanagra as pivotal in the relationship between Sparta and her allies. Both see this as the time that a full offensive and defensive alliance came into place. But while Yates argues that Sparta leads joint action consistently after the Battle of Tanagra, this does not fit the evidence provided by Thucydides, especially at 1.69 where the Corinthians rail at the Spartans for still pursuing a passive policy in the face of the rising power of the Athenians. As can be seen in the table, our sources make it abundantly clear that Sparta "remained aloof" from Greek affairs for much of the 460s,[94] and continued to do so into the 450s, even when many of her Peloponnesian allies (or sympathizers) were involved in warfare against Argos and Athens. In the 460s Argos was able to seize Tiryns and Mycenae because the Spartans did nothing to assist them. Later Corinth, Epidaurus, and Aegina were all embroiled in warfare with

93 Lewis 1992, 143.

94 Kennell 2010, 116.

the Athenians while the Spartans stood by idle, even refusing to respond to an Athenian attack on Spartan soil. Corinth is by far the leading player in the warfare against Athens. Indeed, Justin (3.6.6) claims that Sparta delegated the war against Athens to her "Peloponnesian allies". On the strength of Sparta's inactivity Yates argues that "the actions of the Spartan alliance in the fifth century similarly produce little confidence that the Spartan alliance was governed by strict defensive obligations".[95] I am inclined to agree the basic point, but not with the interpretation of the wider significance. Again we have nothing to disprove the hypothesis that they were obliged to follow Sparta where she led – Sparta is merely refusing to lead unless she has a good reason such as when the Dorian homeland was under threat.

9.6.3 Sparta and her allies finally defined – the Thirty Years' Peace

But by the time of the outbreak of the Archidamian War the relationship between Sparta and her allies had clearly changed. At some point in time between ca. 460 when Corinth attacked Megara and 431, Sparta's allies must have exchanged oaths to have the same enemies and friends. For according to Thucydides' account (1.71.4–6) of the debate about whether to go to war against Athens the Corinthians make an obvious allusion to an oath to have the same enemies and friends with a mutual-defence clause when they warn the Spartans that they are betraying their friends and kinsmen, and threaten to make a new alliance with a new leader i.e. Argos:

> For the present, help (*boēthēsate*) your allies and Potidaea in particular, as you promised, by a speedy invasion of Attica, and do not sacrifice friends (*philoi*) and kindred to their bitterest enemies (*echthistoi*), and drive the rest of us in despair to some other alliance (*summachia*).[96] Such a step would not be condemned either by the gods who received our oaths, or by the men who witnessed them. The breach of a treaty cannot be laid to the people whom desertion compels to seek new relations, but to the power not helping (*mē boēthountes*) those with whom they have sworn oaths. But if you will only act, we will stand by you (*menoumen*); it would be unnatural for us to change, and never should we meet with such a congenial ally.

95 Yates 2005, 69. Cawkwell (1993, 375) argued that a full offensive and defensive alliance came into place between Halieis and Cecryphaleia, but this does not sit well with Sparta's continued inactivity.

96 This is clearly a threat to make an alliance with Argos, as the scholion to this passage makes clear.

The Corinthians stress that they will not be breaking their oaths if they make this new alliance because the Spartans are breaking their own oaths by being inactive. The reference to friends and enemies (literally "worst enemies") is a clear allusion to an oath to have the same enemies and friends, and the double reference to the Spartans not helping as they have sworn to do must be an allusion to a mutual-defence clause. The Corinthians clearly feel that the Spartans are violating these oaths. But they do concede that if the Spartans show themselves to be "zealous" allies, they would not only be wrong to change their friends, but they would not find these new friends more congenial than the Spartans.

A similar theme comes through in Thucydides' account (5.30) of Corinth's brief flirtation with Argos in the 420s. The Spartans warn the Corinthians that they will be violating their oaths if they desert Sparta and become an ally of Argos:

> In the meantime the Lacedaemonians perceiving … that Corinth was … herself about to enter into alliance with the Argives, sent ambassadors thither in the hope of preventing what was in contemplation. They … told her that she could not desert Lacedaemon and become the ally of Argos, without adding violation of her oaths to the crime which she had already committed in not accepting the treaty with Athens.

If an alliance with Argos means violating their oaths by default, this surely can mean only that the Corinthians have sworn an oath to have the same friends and enemies as the Spartans. Argos is Sparta's enemy *par excellence*, ergo Corinth must consider Argos an enemy too. Clearly a significant change has occurred.

Yates sees the Five Years' Truce of 451 as the *terminus ante quem* for the adoption of a full offensive and defensive alliance between Sparta and her allies. He argues:

> I suggest that at least by the conclusion of the Five Years' Truce in 451 the Spartans had applied foreign policy obligations to their alliance. Although the exact terms of the Truce are unknown, it seems likely that Sparta's allies agreed to the cessation of hostilities as a bloc, an attack on any member of which by the Athenians would presumably result in the resumption of hostilities against Athens. Without a formal obligation within the Spartan alliance to have the same friends and enemies and to follow the Spartans either to defend a beleaguered ally or conduct a punitive campaign against Attica, the Truce could have provided little real security to the Peloponnesians who were party to it.[97]

But this is by no means certain. The Five Years' Truce was merely a speed bump in the rivalry between Athens and the Peloponnesians. Almost as

97 Yates 2005, 71.

soon as it was sworn the Athenians and Spartans risked coming to blows over Delphi. According to Thucydides (1.112.5):

> After this the Lacedaemonians undertook the so-called sacred war, and getting possession of the temple at Delphi, delivered it to the Delphians; and afterwards, when they had withdrawn, the Athenians made an expedition, got possession of it, and delivered it again to the Phocians.

If the Spartans and the Athenians had a peace treaty that defined their enemies and friends, their behaviour regarding Delphi suggests they were being remarkably cavalier about it.

Moreover the vagueness of the Five Years' Truce compared to the Thirty Years' Peace of 446/5 can be seen in the fact that Thucydides (1.112.1) uses the term "the Peloponnesians" rather than "the Lacedaemonians and their allies" when he describes the formalizing of the peace. Certainly, Thucydides uses the term "Peloponnesians" quite "loosely",[98] but he is not typically vague when it comes to the identity of the states involved in key events such as this one, which is after all the first recorded large-scale peace treaty in Greek history! His use of the term "Peloponnesians" in this context should be seen to indicate that the truce was not a wholesale peace treaty between "the Athenians and their allies" on the one, and "the Spartans and their allies" on the other. After all, the war against Athens had not really been led by Spartans. In fact there is nothing to suggest that the Spartans had been in a state of war with Athens prior to the Battle of Tanagra.[99] Corinth was the leader of the "Peloponnesians" in warfare against Athens in the 460s. Indeed, the Athenian attack at Tanagra came as a surprise to the Spartans who clearly not expecting the Athenians to contest their return to the Peloponnese. Even after the battle the Spartans remained remarkably inactive. They did nothing to prevent Aegina from surrendering to Athens, nothing to protect Sicyon against two Athenian attacks, and nothing at all to help Corinth's colonies in Aetolia. Even when the Athenians attacked Gytheum and settled the Messenians who left Ithome under a truce at Naupactus the Spartans did nothing against them. It is therefore entirely possible that the Truce was not a peace made between two hegemonial powers as was the Thirty Years' Peace, but a ceasefire for five years which ended the Athenian attacks on Corinth, her neighbours and colonies, and prevented future attacks on Sparta. It was therefore not a truce between

98 De Ste. Croix 1972, 188.

99 Hammond (1959, 294) argued that "it is probable that Sparta and Athens were not formally at war".

Athens and Sparta, but a truce between Athens and various Peloponnesian states *including* Sparta (see §10.3).

A far more obvious time for a full offensive and defensive alliance to come into effect would be the Thirty Years' Peace of 446/5. Previous Spartan inactivity argues against an earlier date, and only after the Thirty Years' Peace do we have clear evidence that the Spartans and their allies must have sworn an oath to have the same enemies and friends. It should also be borne in mind that this time Thucydides makes it clear that peace was made between "the Lacedaemonians and their allies" and "the Athenians and their allies". Therefore the Spartans made peace as the acknowledged hegemon of the Peloponnesians rather than as one among many Peloponnesian states. The treaty required both "sides" to be clearly defined in order for the Peace to be enforceable, and explicitly defined both friends and enemies (Thuc. 1.35). With a list produced to verify it, for the first time, "the Lacedaemonians and their allies" would have been clearly spelt out, rather than being a loose collection of states bound to follow the Spartans whithersoever they might lead. With both blocs clearly defined, it would be natural and necessary for both the Spartans and the Athenians to require their allies to swear not only to fight with them, but also to have the same enemies and friends, and to provide assistance in the event of a hostile attack. This would hypothetically prevent warfare within the alliance that might lead to a breaching of the treaty. A formal definition of the "members" of each alliance and the solidification of that arrangement with oaths would remove the potential for a belligerent or defecting ally to drag Athens into war with Sparta, or vice versa. Unfortunately for both Sparta and Athens a dispute over a third party not included in the peace led to an irrevocable breakdown.

9.6.4 The power of the "full" oath

The full oath the Spartans expected of their allies after 446/5 can be reconstructed as follows:

> I will follow the Spartans whithersoever they may lead on land and sea. I will have the same enemies and friends as the Spartans, and if anyone shall lead an expedition against the land of the Spartans, I will help with my strength to the best of my ability.

There must have been a reciprocal oath by the Spartans not only to lead them on land and sea, but also to have the same enemies and friends, and to help to the best of their ability in the event of an attack.[100]

But rather than producing a "League" of equals, the new clauses actually strengthened Sparta's grip over her allies, effectively binding them to have the same foreign policy as Sparta. The strength of the oath to follow the Spartans can be seen in the fact that in the 420s the Eleans joined (*sun<es>ebalon*) the Lacedaemonians in their invasion of Athenian territory "against their will" (*akousiōs*) (Paus. 5.4.7). Clearly this rankled, because Pausanias goes on to say that "shortly afterwards" the Eleans rose up with the Mantineans and Argives against the Spartans and advised the Athenians to join their alliance.[101] When the Athenians submitted to Sparta in 404 they were compelled to swear the full oath. Adcock & Mosley argue that the Athenians made no significant diplomatic initiative for almost a decade after being compelled to swear to have the same enemies and friends as the Spartans. When they did send envoys to the Persians in 396/5 these were arrested and put to death by the Spartans "apparently without any Athenian protest". It is significant that when they did make an alliance with Thebes it was defensive only.[102]

The oath's power grew despite the obvious dwindling of the number of Spartiates in the Lacedaemonian forces. According to Plutarch (*Ages.* 26.4) "the allies of the Lacedaemonians" complained that "they had no wish to be led hither and thither to destruction every year, especially when it was a matter of so many of them having to follow so few Lacedaemonians". The explicit references to leading and following must surely be a reminder of their oath to follow the Spartans whithersoever they might lead, and given that Plutarch explicitly dates the comment to the time of Sphodrias' raid on the Piraeus (382) when Spartan power was at its strongest, the "allies" at this time must be identified as the majority of the Peloponnesians.

The message we receive from our sources is that Sparta remains a leader, and not even a leader by consensus. When appealing for assistance against the Acarnanians in 389, the Achaean ambassador reminds the Spartans that "we Achaeans join up with you Spartans whenever you give the word and follow wherever you lead the way" (Xen. *Hell.* 4.6.2). Surely

100 Such clauses are restored in the document announcing the alliance between Sparta and the Aetolian Erxadieis.

101 This is clearly a reference to the alliance in 420 between Athens, Argos, Mantinea and Elis. It is unfortunate that we cannot determine which invasion of Attica so displeased the Eleans.

102 Adcock & Mosley 1975, 190.

that is the key – the allies follow whenever the Spartans ask; if the Spartans do not ask, they do not follow. The Spartans only seem to help their allies when they themselves feel the need. In ignoring requests for help they perhaps exploit the vagueness of the clause "to the best of their ability". That Sparta held all the cards when it came to foreign policy decisions can be seen in the fact that when King Agis made a truce with the Argives in 418, he did so without telling any of the allies what he was doing. According to Thucydides (5.60.1–3):

> The Argives who made these statements did so upon their own authority, not by order of the people, and Agis on his accepted their proposals and, without either consulting the majority or taking time to deliberate, simply communicated the matter to a single individual, one of the high officers accompanying the expedition, and granted the Argives a truce for four months, in which to fulfil their promises; after which he immediately led off the army without giving any explanation to any of the other allies. The Lacedaemonians and their allies followed their general out of respect for the law (*nomos*), but amongst themselves loudly blamed Agis for going away from so fair a field…without having done anything worthy of their strength. Indeed this was by far the finest Greek army ever yet brought together; and it should have been seen while it was still united (literally *athroos* or "crowded") at Nemea, with the Lacedaemonians in full force, the Arcadians, Boeotians, Corinthians, Sicyonians, Pellenians, Phliasians and Megarians, and all these the flower of their respective populations, thinking themselves a match not merely for the Argive confederacy, but for another such added to it.

Despite the fact that he commanded one of the largest allied armies ever assembled in the Greek world, Agis felt confident to make a truce without even telling his allies what he was doing.

Compelling their allies to swear to have the same enemies and friends also made the oath simpler for the Spartans to police. There was less chance of an ally exploiting the grey areas as there was with the oath to follow. On both occasions when Corinth threatened to make an alliance with Argos, the Spartans could instantly point to the fact that they would be violating their oath to have the same enemies and friends if they did so. If an ally went ahead and made an alliance with an enemy, as the Eleans and Mantineans did when they made an alliance with Argos in 421 BC, it would be obvious to all that they had broken their alliance with Sparta. No act could be more clearly directed against Sparta than an alliance with the hated Argives. But the older oath to follow is still crucial, for refusal to follow clearly indicated that relations were no longer cordial between the Spartans and their allies. The first clear indication that the Corinthians will break with the Spartans in the 390s comes at Xen. *Hell.* 3.5.5 where they are explicitly said to have refused to follow (literally *mē sustrateuein* "not march with") King Pausanias into Boeotia along with the Spartan hoplites

and troops from "the rest of the Peloponnese". By violating their obligation to follow the Spartans whithersoever they might lead the Corinthians are clearly signalling their hostility and withdrawal from the alliance. Their subsequent alliance with Argos makes that withdrawal complete.

Cartledge argues that if an ally refused to follow, "Sparta was fully justified in coercing the ally".[103] But on most occasions the Spartans seem to be able to put aside their frustration with their allies and allow them to "revert" to their old alliance without undue fuss. It is tempting to think that they were happy to let their allies perjure themselves as Agesilaus does with the Persian Tissaphernes safe in the knowledge that the gods will be on their side. According to Xenophon (*Ages.* 1.13) Agesilaus was by no means downcast when Tissaphernes broke a sworn truce:

> But Agesilaus with a beaming face bade the envoys of Tissaphernes inform their master that he was profoundly grateful to him for his perjury, by which he had gained the hostility of the gods for himself and had made them allies of the Greeks.

It is entirely possible that Sparta felt the same way about her renegade allies. She could bide her time, safe in the knowledge that the gods were on her side. Cartledge argues that the Spartans could "act strictly ultra vires in coercing and punishing allies who had in various ways exploited her earlier weakness".[104] The Mantineans would find this to their cost more than thirty years after they had violated their oaths by making an alliance with Argos (see §10.7).

9.7 Oaths between multiple equals

One last alliance type that should be considered is that between multiple equals such as the alliance between Athens, Argos, Mantinea, and Elis ca. 420 BC. We are fortunate to possess not only Thucydides' detailed account of the formalization of this multiple-state alliance, but also part of the Athenian inscription recording the alliance (*IG* i^3 83). From the similarities between the two documents it is clear that Thucydides was quoting from one of the decrees announcing the alliance, but the slight differences between Thucydides and the Athenian inscription suggest that Thucydides must have been quoting from one of the Argive, Mantinean

103 Cartledge 1987, 13.
104 Cartledge 1987, 13.

or Elean documents, or perhaps even the version that Pausanias (5.12.8) saw at Olympia centuries later.[105]

This multi-state oath is of considerable significance, for it binds multiple states together as equals but does not create a league. In fact, several of the signatories – for certain Athens, but perhaps also each of the others – were already members of leagues, and were swearing the oaths on behalf of their allies, for the text states that the Athenians, Argives, Mantineans, and Eleans, were "acting for themselves and the allies whom they respectively rule" when they made the treaty which was to be valid on both land and sea.[106] As noted above, each state was to swear their most binding oath over full-grown victims; the oath being:

> I will stand by the alliance and its articles, justly, innocently, and sincerely, and I will not transgress the same in any way or means whatsoever.

The terms of the treaty were as follows:

1. It shall not be lawful for either party to take up arms against the other with intent to do injury, in any way or by any means whatsoever.
2. In case of an enemy invasion of Athenian territory, the Argives, Eleans, and Mantineans were required to help, "as the Athenians may require by message, in the most effective way possible, to the best of their power". The offending state should be considered to be the enemy of all parties, and none could make peace with that state without the approval of all.
3. In the same way, the Athenians were required to assist Argos, Mantinea, and Elis in case of any enemy invasion of Argive, Mantinean, or Elean territory.
4. None of the parties should allow the passage of an army or fleet "through the territories of the allied powers themselves or of the allies under their control" unless all states voted in favour of such a passage.
5. Each party would be responsible for maintaining their own troops "for thirty days from their arrival in the city which has asked for them, and also on their return journey". But if they were required for longer, the city that sent for them would pay for their supplies.

105 Thucydides' text of the treaty (5.47.11) states that the articles of the treaty, the oaths, and the alliance shall be inscribed on a stone pillar by the Athenians in the citadel, by the Argives in the market-place, in the temple of Apollo; by the Mantineans in the temple of Zeus, in the market-place; and a brazen pillar shall be erected jointly by them at the Olympic games.

106 Buckley (1996, 275) observes that when the Athenians made an alliance with Argos in the 460s it was to marry her sea power to Argos' strength in hoplites. This alliance was to apply on land and sea equally.

> 6. The city which sends for the troops would have the command when the war was in its territory; but in case of the cities deciding upon a joint expedition the command would be equally divided.

In many ways this oath is a textbook example of a sworn alliance, because it is a composite of all the other types of oaths discussed thus far. It begins with an anti-deceit clause, followed by what is essentially a clause to have the same enemies and friends, and then a mutual-defence clause. The anti-deceit clause is carefully defined to include sea as well as land. No room is left for deception with regard to the mutual-defence clause, with provision being made for payment for troops, and clearly defined rules for sharing command. Each state will swear its most binding oath (no "foreign" gods or rituals will be involved), and the sacrificing of full-grown victims is specified. The alliance was to last one hundred years, but in reality it was soon null and void. Soon after the Spartans defeated the allies in the Battle of Mantinea in 418 BC the Argives quickly agreed to a fifty-year truce with Sparta, and Mantinea and Elis renewed their ties with the Spartans. Yet the document was still standing in Olympia more than five hundred years later. Although the oaths sworn by the Athenians, Argives, Mantineans and Eleans had lapsed, the terms were still on display for all to see.

9.8 "Old" oaths of alliance

One might expect that once an alliance had lapsed that would be the end of it, and that broken treaties would be destroyed. But the evidence we possess makes it clear that alliances (and peace treaties) were displayed long after they were void. As just noted, Pausanias (5.12.8) reports seeing the stele recording the alliance between Athens, Argos, Mantinea and Elis at Olympia half a millennium later:

> In the temple at Olympia tablets (*stēlai*) are set up, including one on which is written the oath sworn by the Eleans to the Athenians, the Argives and the Mantineans, that they would be their allies for a hundred years.

No one in their right mind could claim that this alliance was still valid by the time Pausanias saw it. In fact, no one could realistically suggest it was valid five years after it was sworn. The heady optimism that heralded the announcement of the alliance melted away the moment the Spartans under King Agis II defeated a combined Athenian, Argive, and Mantinean army near Mantinea in 418. Not long after that defeat both the Eleans and Mantineans reverted to their previous alliances with the Spartans, which can only have signalled to the Athenians and the Argives that the alliance

was over. Perhaps even before Mantinea and Elis rejoined the Spartan alliance Argos agreed to a thirty-year peace treaty with Sparta, which left the Athenians very much on their own. Although the fighting at Mantinea ought to have breached the Peace of Nicias between Athens and Sparta, both sides adhered to that Peace until 413. It is almost as if both sides pretended that both the battle and the alliance had never happened. Bolmarcich had asked the question of why the Greeks would continue to display agreements.[107] Now is not the time to discuss this in detail, but it is worth considering the fact that old alliances could be invoked long after they had lapsed.

The best example of an alliance that was invoked long after it should have been null and void is the alliance against the Persians. To all intents and purposes the alliance against the Persians *under Spartan leadership* was null and void the moment Xerxes' invading force was repulsed. Our sources make it clear that the Spartans tried to cling on to leadership of the Greeks for a few years, but the moment the Ionians formed the Delian League under Athenian hegemony the Spartan-led alliance was a dead letter. There was a brief moment when the Spartans considered fighting the Athenians for leadership of the Greeks in the 470s (D.S. 11.50), but we have already seen that the Spartans essentially pursued an isolationist policy after their non-Peloponnesian allies rejected their leadership. Then, suddenly, the best part of two decades later, the Spartans invoked this alliance against the Persians when they needed assistance to put down the Helot revolt which broke out after the disastrous earthquake ca.465.

Thucydides (1.102.1) makes it clear that when the Spartans realised that the war against the Messenian rebels at Ithome was likely to last they "summoned their allies, the Athenians too". After this request was made Cimon led a large force to help the Spartans. Thucydides states that the Athenians were summoned because of their skills in siege warfare. Plutarch (*Cim.* 16–17) provides the extra detail that Ephialtes urged the Athenians to ignore the Spartans, but that Cimon was able to convince the Athenians not to abandon their "yoke-partner", a clear allusion to the war against the Persians. But the Spartans soon began to fear "the audacity and fickleness of the Athenians, whom they regarded as men of another race", and dismissed them. Thucydides explicitly states that the Spartans feared the Athenians might fraternize with the Messenians and be persuaded to "make changes". This very much implies that the Athenians were not seen to be bound by oaths which would prevent such a situation.

107 See Bolmarcich 2007b for a survey of the evidence for what she calls "the afterlife of a treaty".

The slighted Athenians immediately (*euthus*) made alliances with the Argives and the Thessalians. It is striking that the Athenians then ally themselves with two states which had not joined the alliance against the Persians. Clearly there is more going on here than a political slight. If there had been ambiguity about whether the alliance against the Persians was still valid before, there is none whatsoever now.[108]

Hornblower argues that "the description of the Athenians as allies need not imply formal obligations towards Sparta … 'fellow-fighters' … refers to the role which the Athenians were *about* to play".[109] Yates argues that the Athenians helped merely out of goodwill.[110] But Ephialtes' objection to helping Sparta makes it clear that this force was sent not due to general Athenian goodwill towards Sparta, but out of a sworn obligation. Goodwill only plays a role in that Cimon is able to persuade the Athenians that the alliance against the Persians still holds and requires them to help against the helots. The fact that Thucydides states that after the Spartans dismissed them the Athenians "broke off (*aphentes*) the alliance they had made against the Mede" should remove any lingering doubts. When the Spartans humiliate them by sending them away the Athenians demonstrate that that particular alliance is over in the most emphatic way they can – by allying themselves to enemies of Sparta, both of whom had medized.

The fact that old, perhaps even lapsed agreements could still be seen as binding meant that some newer oaths could be seen to violate older oaths. This meant that some oaths needed to take priority over others. The Spartans seem to have interpreted the oaths of loyalty their allies swore as having priority over subsequent conflicting oaths of alliance with their enemies. Sparta thus frequently accepted back allies who had sworn alliances with her enemies Argos and Athens, and new oaths of alliance do not seem to have been required. As far as the Spartans seem to have been concerned the older oaths still stood, even when there was considerable evidence to the contrary. In Spartan eyes once a state was an ally of Sparta it would remain forever so. This is clear in the situation the Spartans,

108 The importance of the new alliance with Argos can be seen in Aeschylus' *Eumenides* from 458 BC, which has Orestes swear (762–774) that no "helmsman of [his] land" will come to bring war against Athens, and that, even from the grave, he will "bar the road with impossible disasters" for those who break the oath, but will be kind to those who keep it. The message is clear – Argos is Athens' new yoke-partner. This is all the more significant when one considers that the Spartans – as the Athenians must have known – regarded Orestes as a Spartan hero. Not only is Aeschylus' Orestes an Argive, so is Menelaus!

109 Hornblower 1991, 158.

110 Yates 2005, 75.

Corinthians, and Argives found themselves in at the time of the Peace of Nicias between Sparta and Athens. Sparta was allied to Corinth. But after growing disenchanted with Sparta and refusing to participate in the Peace of Nicias, the Corinthians threatened to make an alliance with Sparta's nemesis Argos. The Spartans made it clear that the new alliance would be unacceptable to them. According to Thucydides (5.30.1), "the Lacedaemonians…told her that she could not desert Lacedaemon and become the ally of Argos, without adding violation of her oaths to the crime which she had already committed in not accepting the treaty with Athens". As far as Sparta is concerned, the Corinthians will be violating their alliance the moment they make an alliance with Argos. The Spartans were clearly trying to ensure that the Corinthians abided by their oaths. But the Corinthians called the Spartans' bluff. They maintained their opposition to the Peace of Nicias, and made a defensive alliance with Argos. This new oath could bring Corinth into conflict with Sparta if Sparta attacked Argos, which would surely suggest that their alliance with Sparta was over. Yet not long afterwards the Corinthians "turned their thoughts back to Sparta" (Thuc. 5.48.3), abandoned their alliance with Argos, and were accepted back as allies by the Spartans. The Argives feared the same thing would happen again in the early fourth century after they had tempted Corinth into an alliance. According to Xenophon (*Hell.* 4.4.2), the Argives feared that the Corinthians would "revert" to their previous alliance with the Spartans, and to prevent this from happening they went so far as to massacre the pro-Spartans in Corinth. Several years later, after the King's Peace of 387, the Spartans again accepted Corinth back into the old alliance with little fuss. It is clearly the case that the Spartans did not consider that the old oaths between them had necessarily lapsed. Cole suggests oaths of loyalty could have precedence over other oaths,[111] which would perhaps account for why Sparta was easily able to receive back Corinth and other recalcitrant allies. The fact that Sparta so easily received the Corinthians back into their alliance on both occasions strongly suggests that in their minds the older agreements had priority over the newer agreements with Argos.

It is intriguing, then, that the Corinthians had tried to use an "old" oath to get out of swearing to the Peace of Nicias at the same time that the Spartans were insisting that their oaths to them had priority. According to Thucydides (5.30.2–4) when the Spartans attempted to compel the Corinthians to swear, the Corinthians refused on the grounds that they would be violating "old oaths" (*palaiōn horkōn*) they had made "in private" (*idiai*) to their Thracian allies:

111 Cole 1996, 236.

> Corinth in her answer…took shelter under the pretext that she could not betray her Thracian allies, to whom her separate individual sworn pledges had been given, when they first rebelled with Potidaea, as well as upon subsequent occasions. She denied, therefore, that she committed any violation of her oaths to the allies in not entering into the treaty with Athens; having sworn upon the faith of the gods to her Thracian friends, she would be committing perjury if she abandoned them. Besides, the expression was, 'unless the gods or heroes stand in the way.' Now here, as it appeared to her, the gods stood in the way. This was what she said on the subject of her former oaths (*palaiōn horkōn*).

The Corinthian envoy is clearly attempting to suggest that their "old oaths" (*palaioi horkoi*) to their own allies should have priority over the new oaths they will be forced to swear if they join the Peace of Nicias. But the Spartans refuse to have any of this argument. There may be an element of the Spartans effectively telling the Corinthians "we can make the 'old oaths' argument but you cannot", but it is probably more the case that the Corinthians are effectively arguing that these "old oaths", which are in fact relatively recent,[112] somehow trump their *even older* oaths to follow the Spartans! The Spartans make it clear that the Corinthians will be violating these older oaths if they refuse to back down. But even after the Corinthians did refuse to back down the Spartans considered their old oaths valid and accepted the Corinthians as allies once more. As we will see below (§10.7), other Spartan allies did not fare as well as the Corinthians did when they violated their old oaths to the Spartans.

112 For a relatively recent discussion of Thucydides' use of the term *palaios* see Cawkwell 1993, 374.

10 Oaths in peace treaties

Having spent considerable space analysing alliances that were sworn to make war, it is now time to investigate the oaths that were sworn to cease hostilities and to prevent them from occurring again. There were two types of peaces that were customary in Greek international relations – truces that were made before, during and after battles, and longer-term treaties. Both types were known as *spondai*.[1] This name reputedly came about because the god Dionysus released captives "under libations" (*huposphondoi*) after the battle between the Olympian gods and the Titans.[2] According to Diodorus (3.71.5–6):

> The struggle having proved sharp and many having fallen on both sides, Cronus finally was wounded and victory lay with Dionysus, who had distinguished himself in the battle. Thereupon the Titans fled to the regions which had once been possessed by Ammon, and Dionysus gathered up a multitude of captives and returned to Nysa. Here, drawing up his force in arms about the prisoners, he brought a formal accusation against the Titans and gave them every reason to suspect that he was going to execute the captives. But when he got them free from the charges and allowed them to make their choice either to join him in his campaign or to go scot-free, they all chose to join him, and because their lives had been spared contrary to their expectation they venerated him like a god. Dionysus, then, taking the captives singly and giving them a libation (*spondê*) of wine, required them all to swear (*pantas exorkôsai*) that they would join in the campaign without treachery and fight manfully until death; consequently, these captives being the first to be designated as "freed under a truce" (*huposphondoi*), men of later times, imitating the ceremony which had been performed at that time, speak of the truces in wars as *spondai*.

Dionysus' rite would become standard practice in Greek international relations.

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1 Burkert (1985, 250) notes, "Generally the oath is accompanied by an animal sacrifice and libation; the libation comes very much to the fore in the case of the armistice and the peace treaty which set an end to bloodshed; these are therefore known quite simply as *spondai*".

2 Connor 1988, 15.

10.1 Pouring the peace libations

Because pouring libations was integral to these truces, the surviving sources not only use the noun *spondai* to denote a truce, but also typically employ the verb *spendō* "to pour a drink-offering" in the same connection, so much so that the middle voice of this verb, *spendomai*, itself comes to mean "make a peace treaty".[3] The link between peace treaties and libations is perhaps nowhere clearer than in Aeschines' characterization of Demosthenes' reaction to an attempt by a representative of the Thracian king Cersobleptes to join in the Peace of Philocrates of 346/5 BC. Aeschines (2.85) reminds the Athenian jurors:

> When the motion had been read—I think you all remember this—Demosthenes arose from among the presiding officers and refused to put the motion to the vote, saying that he would not bring to naught the peace with Philip, and that he did not recognize the sort of allies who joined only in time, as it were, to help in pouring the peace libations (*tois spendousi*); for they had had their opportunity at an earlier session of the assembly.

Clearly for Demosthenes, "pouring the libations" and joining the peace treaty are one and the same.

The goddess Gaea literally drinks libations.[4] Aeschylus (*Cho.* 164) has Electra tell the Chorus: "My father has by now received the libations, which the earth has drunk", and Sophocles (*OC* 482) has Oedipus ask of the Chorus what will happen "when the earth under the dark shade has drunk these". It is significant then that Gaea is explicitly invoked in the one large-scale peace treaty for which we have any evidence of the divine witnesses, the so-called League of Corinth formed in 338/7 (*IG* ii^2 236). The text makes it clear that swearers invoked Gaea along with Zeus, Helios, Poseidon, Athena, Ares, and all the other gods and goddesses as witnesses. Gaea would have received the libation directly, and was presumably thought to have watched on with approval when Alexander sacked the city of the Thebans in 335 after they rebelled against him in violation of their oath.

It seems likely that the connection between libations of *red* wine and the sworn truces was symbolic – truces ended bloodshed, and the libation represents what will happen to those who break the oath, i.e. their blood will be spilt. This is precisely what Agamemnon prays for as he pours the libation during the formalization of the truce between the Achaeans and the Trojans discussed earlier. The libations would have been accompanied

3 For more on this see Baltrusch 1994, 92ff; Alonzo 2007, 209, 222 n.4.

4 Burkert 1985, 71.

by many other rituals that formalized the agreement, not least the oath itself. Sacrifices would have been a normal part of the ritual. This can be seen in the fact that Euripides (*Hel.* 1235ff) has Helen propose to Theoclymenus that he "cut a truce" (*spondas temōmen*) and reconcile himself to her. The phrase to "cut a truce" is very reminiscent of the phrase "to cut an oath" (§8.1), so common in our sources and so evocative of the sacrifice that accompanied all important oaths.

It is unfortunate that we are very limited in the way of primary evidence for the procedures involved in formalizing peaces apart from the eponymous libations. We have almost nothing in the way of secure information about the wording of sworn treaties, and usually have to make do with what our sources tell us about the terms of the treaty. A prime example is the King's Peace of 387/6. Despite this being one of the most significant international agreements in Greek history, Xenophon – an eyewitness to the peace process – provides us with only an epitome of the peace and its terms.

The obvious exception to this pattern of a dearth of evidence is the League of Corinth oaths from 338/7, for we are fortunate enough to have a fragmentary copy of the agreement from Athens (*IG* ii² 236). According to this very fragmentary text, the parties to the peace swore by Zeus, Gaea, Helios, Poseidon, Athena, Ares, and all the other gods and goddesses:

> I will abide by the peace (?) and neither break the agreement with Philip (?) nor take up arms for harm against any of those who abide by the oaths (?) neither by land nor by sea; nor will I take any *polis* or guard-post nor harbour, for war, from any of those participating in the peace, by any craft or contrivance; nor will I overthrow the kingdom of Philip or his descendants, nor the constitutions existing in each state when they swore the oaths concerning the peace; nor will I do anything contrary to these agreements, nor allow anyone else as far as possible; if anyone does commit any breach of treaty concerning the agreements, I will go in support as called on by those who are wronged (?) and I will make war against the one who transgresses the common peace (?) as decided by the common *sunedrion* and the *hēgemōn*; and I will not abandon…

Unfortunately the text breaks off at this point, and we are left in the dark regarding the rest of the oath and the swearing procedure. But what is clear is that the oath very much resembled that of an interstate alliance. As with alliances, the swearers promise to abide by the agreement. The wording "by any craft or contrivance" is effectively an anti-deceit clause, and there is a mutual defence clause ("I will go in support as called on by those who are wronged and I will make war against the one who transgresses the common peace"). Peace treaties such as this one can

therefore be seen as grounded in standard Greek diplomatic practices.[5] Thucydides' account of the Peace of Nicias of 422/1 allows us to fill in a few of the gaps when it comes to procedural arrangements for *spondai*. According to Thucydides (5.17–18) all those who joined the peace "made the agreement, pouring libations (*espeisanto*) and they swore oaths (*ōmosan*) to the Athenians, and the Athenians to the Lacedaemonians". Representatives of each state swore, "I will abide by this agreement and this treaty (*tais spondais*) justly (*dikaiōs*) and without deceit (*adolōs*)".

What limited information we possess therefore suggests that the process of formalizing a peace treaty was quite similar to that for formalizing an alliance, with sworn statements, sacrifices, libations, and the invocation of appropriate deities as witnesses. The sole source to mention divine witnesses indicates that gods representing the various aspects of the cosmos and war gods were invoked as in alliances. It seems more likely than not that an oath to abide by the agreement with an anti-deceit clause would have been sworn. Our next step is to consider the origins of these sworn agreements which, despite allegedly dating back to the wars between the gods and the Titans, are not well attested until the middle of the fifth century.

10.2 The historical origins of sworn peace treaties

The first historically attested peace-treaty oaths were sworn in 451/0 BC, in the so-called Five Years' Truce between the Athenians and the Peloponnesians (Thuc. 1.112.1), and the thirty-year truce Sparta made with Argos (Thuc. 5.14.4).[6] These historic agreements were swiftly

5 Perlman 1985, 174.

6 Jones (1967, 53) argues that "it is probable that a 50-years truce between Sparta and Argos ran out in 496". Alonzo (2007, 220) suggests that the notion of a thirty-year truce between Sparta and Argos was the model for the peace between Sparta and Tegea in the sixth century, and that this was "the starting point of the Peloponnesian League". Given the lack of information regarding truces until 451/0 both notions seem rather unlikely. In Herodotus' day the Argives were claiming that they had offered the Spartans a thirty-year peace prior to Xerxes' invasion. But this offer was conditional on the Argives being granted joint command of the Panhellenic forces and therefore never came to fruition (Hdt. 7.148-9). Modern scholars (e.g. Cartledge 2002, 174) rightly doubt the veracity of the Argive claims. Herodotus (7.150) dismisses the story as "the Argive version" of events, and reports the belief held throughout Greece (*ana tēn Hellada*) that the Argives had Medized. If the Argives did make such an offer in 481, they were clearly thinking innovatively. It seems more likely that the Argives hatched a plan

followed by the considerably more comprehensive Thirty Years' Peace of 446/5 between the Athenians and their allies on one side, and the Spartans and their allies on the other. Each of these treaties was given the nomenclature *spondai*, but over time similar agreements came to be characterized in our sources as "peace" (*eirēnē*).[7] Once peace treaties came to include the majority of the Greek states in the fourth century the term "common peace" (*koinē eirēnē*) became prevalent.[8] But sworn truces could also very occasionally be referred to as an *ekecheiria*, literally a "staying of hands" (Thuc. 4.117–119, 122.1; 5.1),[9] a term more commonly used to describe the sacred truces which the Greeks observed for important religious festivals such as the Panhellenic festivals at Olympia, Delphi, Isthmia and Nemea.

Many modern scholars see the origins of sworn truces in the sacred truces associated with the festivals just mentioned,[10] and others such as the Panathenaea, the Eleusinian Mysteries, and the Dorian festival of the Carnea. Around the time of these festivals the Greeks observed a sacred truce (*ekecheiria*) which "covered the period immediately before, during and after the sacred celebration, and … guaranteed the safety of all those travelling to and from the festival, as well as those at the site itself".[11] In order to facilitate the sacred truce, sacred messengers called either *theōroi* or *spondophoroi* (truce-bearers) were sent out to inform the citizens of the different Greek states that the games were soon to commence, and to seek acceptance of the sacred truce. We have epigraphical evidence confirming that the truce for the Eleusinian Mysteries had a duration of

for a thirty-year peace in 451 (after the five-year treaty between Athens and the Peloponnesians) and "remembered" an earlier treaty in order to "sell" the concept to the Spartans of their own day.

7 The first unambiguous reference to a sworn truce as a "peace" (*eirēnē*) by a contemporary source is a solitary reference to the Thirty Years' Peace of 446/5 as "the Peace" by Thucydides (3.54.3). Aristophanes imagines a "peace" in the *Acharnians* (1051–67) from 425 BC, and again in the *Peace* of 421 (1079).

8 The term first appears in Andocides' *On the Peace* from 392 BC when he stresses to his audience that they "are negotiating today for common peace and independence for all the Greeks". Andocides (3.10–12) makes a rather desperate, and quite obviously *ad hoc*, effort to make a semantic distinction between *eirēnē* (good) and *spondai* (bad), the former being on equal terms, the latter imposed by a victor.

9 Pritchett 1975, 125.

10 Larsen (1944, 147) argues that "All amphictionies had from the outset contributed to the cause of peace through religious truces in connection with their festivals and gatherings".

11 Dillon 1997, 2.

fifty-five days (*IG* i³ 6B, 17–27, 36–47), and the Olympic truce probably lasted around a month, but could be longer.[12]

There is nothing in our extant sources to suggest that such truces were sworn, and much to suggest that they were not. First, the truces did not prevent all warfare.[13] Thucydides (8.9.1–2) makes it clear that whereas the Corinthians were unable to fight during the Isthmian truce of 412 BC, the Spartans felt no such obligations and sailed to Chios to support the Chians in their rebellion against Athens. Secondly, the manner in which sacred truces were formalized is not suggestive of an exchange of oaths. The sacred messengers who announced the Olympic truces did just that – they announced the holding of the games and therefore the need for the truce. There is no hint in our sources of an exchange of oaths. The truce for the Carnea festival is even less suited to an oath-exchange, for the timing of the Carnea appears to have depended upon different calendars. Thus the Argives were able to successfully attack Epidaurus in 419/8 by manipulating their calendar. According to Thucydides (5.54.2–3) the Argives attacked the Epidaurians on the 27th day of the month preceding the holy month of Carneus and continued to observe that day for the whole campaign (*panta ton chronon*). The Epidaurians' allies had already begun celebrating the Carnea were were unable or unwilling to help. Crucially Thucydides makes no mention of the Argives breaking oaths. The Argives attempted a similar ruse in 388, rebuking the Spartans for invading Argive territory during the sacred truce (Xen. *Hell.* 4.7.2–3, 5.1.29). Clearly it was not actually the month of Carneus, because the Spartan king Agesipolis asked the oracles of Zeus and Apollo whether it would be possible to reject a truce with the Argives on the grounds that according to their "untampered" calendar it was not the time of the sacred truce. Both the oracles at Olympia and Delphi informed Agesipolis that it would not be sacrilegious to break the truce because the Argives had behaved incorrectly. As with Thucydides' account of events in 419/8, nothing in Xenophon's account suggests that either the Argives or the Spartans are in danger of violating sworn obligations.[14]

But while these truces were not sworn, their prevalence particularly among the Peloponnesians may have served as the catalyst for the development of more advanced sworn truces, especially once sworn alliances had paved the way. It is perhaps not insignificant that the first

12 See Pritchett (1991, 121 n.28) for a comprehensive list (at that time) of modern scholarship on the duration of various sacred truces.

13 Krentz 2007b, 155.

14 For modern discussions of these and other calendric manipulations see Pritchett 1975, 124–6, Dunn 1999, 226–7, and Bayliss 2011, 178.

two attested full-scale sworn cessations of hostilities involve the "Peloponnesians" making a truce with the Athenians for five years and the thirty-year truce between the Dorian Argives and Spartans. Their long history of observing sacred truces for the Olympic, Isthmian, Nemean and Carnean festivals suggests that the Peloponnesians – especially the Dorians – were inclined towards observing such agreements. Pritchett observes:

> The weight of the evidence shows that the Greeks, especially those of the Peloponnese, among whom the force of religious routine appears to have been strongest, could not bring themselves easily to forego observance of venerated solemnities.

The annual observance of temporary sacred truces across the Peloponnese would make the Peloponnesian states the most natural proponents of a more advanced type of sworn truce in the 450s BC. The impetus of a decade of protracted fighting against the Athenians and more than fifty years of fighting amongst themselves would certainly have helped the process. But it seems likely that their common experience of observing temporary unsworn truces, combined with their shared geography and ethnicity, provided the curious mix of trust, respect, enmity, and acknowledgement of power that was required to make a long-term peace treaty last. It was a phenomenon that would play a major role in Greek international relations for the next century.

10.3 The first sworn peace treaties

As noted above, the first sworn truces attested by any source were sworn in 451/0, right in the middle of the Pentekontaetia. Given that such truces are unattested before this date, we would expect that our sources would give us some indication of the novelty of these truces. But Thucydides tells us very little, which is unfortunately in keeping with his very thin coverage of the Pentekontaetia as a whole. Thucydides (1.112.1) merely states that after the Athenians and the Peloponnesians made peace (*spondai*) for five years, stressing that the Athenians did abstain from making war against other Greeks and made war in Cyprus instead under the command of Cimon. Later tradition had it that Cimon brought about the peace between Athens and the Peloponnesians. Plutarch (*Cim.* 18.1) confirms the involvement of Cimon, and helpfully (albeit perhaps inaccurately) casts Cimon as "arranging a settlement between the two cities". According to Plutarch (*Per.* 10.4):

> Cimon returned from exile and negotiated a peace (*eirēnē*) between the two cities, for the Lacedaemonians were as well disposed towards him as they were hostile to Pericles and the other democratic leaders.

Diodorus (11.86.1) glibly states that "the Athenians and the Peloponnesians agreed to a truce (*spondai*) of five years, Cimon the Athenian having conducted the negotiations", unhelpfully placing the truce in 454 BC. Fine finds it surprising that Cimon took so long to reconcile the two parties if he was recalled to Athens after the dual disasters of the Battle of Tanagra and the failed Egyptian expedition.[15] But the fact that this may have been the first *ever* international peace treaty of any size in the Greek world might explain why it took so long to effect. So too might the chaotic affairs of the Peloponnesians. We have already seen that the Five Years' Truce did not bear the hallmarks of a peace made between two hegemonial powers like the Thirty Years' Peace, but appears to have been a truce between Athens and various Peloponnesian states *including* Sparta. The "reconciliation" between Athens and Sparta may have taken so long partly because it was not a negotiation between two parties, but rather several different parties. It may have been further problematized by the relative inactivity of the Spartans. Their isolationist approach would not have made negotiating a new type of peace an easy task. The relatively short length of the peace probably reflects both its relative novelty, and the fact that both the Peloponnesians and the Athenians were not particularly inclined to peace – Alonzo suggests that both were "essentially keeping their swords drawn and ready".[16]

The next major peace treaty – a thirty-year truce between Sparta and Argos in either 451 or 450 – was a rather different affair. Unfortunately we are even more in the dark with this treaty than with the Five Years' Truce. Thucydides tells us nothing about it at the time that it was agreed; we only learn of the treaty by accident when Thucydides (5.14.4) observes that this truce between Sparta and Argos was about to expire in 422/1 BC, and that the Argives were unwilling to make another treaty (*spendesthai*) unless the territory of Cynuria was restored to them. Unfortunately Thucydides provides us with no other details about this crucial exchange of oaths, and this time we have no other sources to help us fill in the gaps. Nonetheless we can make certain observations.

First, the length of the agreement suggests a healthy combination of respect and fear on the part of the Spartans and the Argives at the time the truce was agreed. Secondly, in contrast with the majority of peace treaties recorded by our sources, there seem to have been no allegations of

15 Fine 1983, 359.

16 Alonzo 2007, 220.

breaches by either the Spartans or the Argives. In many ways this peace treaty is the exception that proves the rule in that regard. One suspects that there was no tangible benefit for either side in breaching the peace. The Argives are thought to have taken advantage of the long period of peace to make long-term enhancements to the Argive Heraion, while the Spartans could be confident of their northern frontier after a considerable period of external and internal strife. It may be that the routine observance of temporary sacred truces in the Peloponnese made the Spartans and Argives more naturally inclined to trust each other to observe the peace. But it is significant that a special clause was inserted into the Thirty Years' Peace treaty the Spartans made with Athens a few years later in 446/5. According to Pausanias (5.23.4): "One of the articles of the treaty is to the effect that although Argos is not to have a part (*mē meteinai*) in the treaty between Athens and Sparta, the Athenians and the Argives may in private (*idiai*), if they wish, have friendly relations". The fact that the Spartans did not wish to blur the boundaries between their sworn truce with Argos and the newer sworn truce with the Athenians suggests that the Spartans still felt reason for caution. Whether they doubted the Argives, the Athenians, or both is not clear. But not even half way through the Thirty Years' Peace both the Spartans and the Athenians made it emphatically clear that they no longer trusted each other at all.

10.4 The Thirty Years' Peace of 446/5: Sparta's fear of Athens or fear of the gods?

When Thucydides set out to write his account of the Peloponnesian War his aim was to show that contrary to the publicly stated reason for the war which was the dispute between Athens and Corinth over Corcyra, Sparta and Athens went to war because the Spartans were afraid of Athenian power. He also appears to have laboured hard to remove from his work the role that religion played in that process. What is remarkable, then, is that Thucydides also consistently demonstrates (presumably unintentionally) that the oaths of the Thirty Years' Peace were just as vital to the process of going to war as Spartan fear of Athens, if not more so. Reading between the lines of Thucydides' account we can clearly see what would be an unpalatable truth for Thucydides and the many modern commentators who accept his views – that the Spartans did not go to war because they feared Athenian power, but because they believed the gods would be on their side if they went to war because Athens had broken the peace, and because they believed they might be in danger of violating their sworn word to their allies if they did not protect them against Athens.

They thus believed that they would be acting impiously if they did not go to war, and were therefore not only justified in going to war, but positively required to do so.

Given Thucydides' well-known tendency to overlook religious matters, the terms of the truce and the oaths sworn by each state involved are remarkably prominent in his work. Thucydides makes twenty-four references to the breaching of the Thirty Years' Peace, and each shows that the Spartans and the Athenians were anxious to demonstrate that they were not breaking the oaths they had sworn, and that the other side *had* broken theirs. Some twelve (50%) of these references suggest that Athens had broken (7), would break (1), was trying not to break (2), or was denying breaking the Peace. Nine references (38%) suggest that Sparta (2), Corinth (1), or Thebes (6) was responsible for breaking the treaty, or would break it. Thucydides himself states on two occasions that both sides broke the Treaty. The final reference is the Corcyraeans' statement that an alliance between Athens and Corcyra would not break the Peace.

At first glance the accusations and counter-accusations appear roughly evenly split, which would account for Thucydides' claim (1.23.4) that both sides were guilty of "undoing" (*lusantes*) the Peace. But if we look beyond Thucydides' chaotic presentation of the chronology we can see that the allegations fall into two distinct phases – the accusations made against Athens before the Spartans voted for war, and the accusations made against Thebes (and by proxy Sparta) once the war had commenced. The breakdown of references then looks like this:

- Twelve allegations against Athens vs. none against Sparta, and one against Sparta's ally Corinth, prior to the war;
- Eight allegations against Thebes (6) and Sparta (2), vs. none against Athens after the war had broken out;
- Two post-war judgements by Thucydides that both sides were responsible.

This changes our understanding entirely. Rather than seeing the Peace as being undone by Athens and Sparta in equal measure, we should see the Peace as having been *perceived*, before the war, as violated by Athens, before a later rethinking which saw the Thebans as responsible for breaching the Peace. This reading matches what Thucydides tells us about the Spartan attitude *post eventum*. As noted above (§8.3) Thucydides (7.18.2) claims that after the disaster at Pylos the Spartans began to feel that "the offence had been more on their own side, both on account of the entrance of the Thebans into Plataea in a time of truce (*en spondais*), and also of their own refusal to listen to the Athenian offer of arbitration".

Although Thucydides was dismissive of their attitude to divine retribution, his own account of the beginnings of the war supports their change of heart. In the light of this, Thucydides' account of the breakdown in relations between the Athenians and the Spartans requires a more detailed study.

Although Thucydides' personal opinion was otherwise, the publicly stated reason for the war which ended the Thirty Years' Peace was the dispute between Athens and Corinth over Corcyra. The majority of the allegations aimed at Athens relate to this. The central issue was whether or not Athens would be entitled to make a sworn alliance with Corcyra. This was a matter of debate because Corinth was both at war with Corcyra, and a partner to the sworn peace with Athens. If Corcyra and Athens became allies, Corinth and Athens might come to blows, which would jeopardize the Peace. The Corinthian envoy confidently argued that the Athenians would be violating the peace (*sponda*i) if they made an alliance with Corcyra because they would become enemies of Corinth by default (Thuc. 1.40.2–3). The Corcyraeans argued that they could make an alliance with Athens because they were not allied to Sparta or Corinth, and therefore technically speaking nothing in the oaths and the agreement sworn by Athens should preclude Corcyra from making an alliance with them (Thuc. 1.35.1–2). The sworn peace treaty stipulated that each side was to keep what it possessed (Thuc. 1.140.2), and a list of each group of allies was produced and attached to the stele (Thuc. 1.40.2), and any state not allied to either side (except for Argos) could join either side.

Hornblower argues that "the Corcyraeans are clearly right…treaties are not concerned with states of mind".[17] But there is clearly a grey area here, not least because the Corinthians imply that the Corcyraeans are allies who have revolted from them when they implore the Athenians not to establish the precedent of admitting into their alliance allies who have revolted from the other side. This is perilously close to an allegation of oath-breaking, but frustratingly Thucydides does not make this clear. The Athenians were sufficiently concerned about the implications of making a full alliance with Corcyra that they refused to do so and instead made a defence-only agreement. It is also clear that even then the Athenians are not fully confident that they will not wind up breaking their oaths, for Thucydides (1.45.3) states that when the Athenians sent out a contingent of ships to support the Corcyraeans against Corinth, strict orders were given not to engage the Corinthians unless they sailed against Corcyra or attempted to land there. Their purpose in giving these orders was to avoid undoing (*mē luein*) the truce. It is surely significant that Cimon's son

17 Hornblower 1991, 82.

Lacedaemonius was one of the commanders. The employment of the son of the only Athenian the Spartans trusted may have been a ploy to convince the Peloponnesians of their peaceful intentions.[18]

But as soon as the Athenians and Corinthians came to blows in the Battle of Sybota the seeds of war between Athens and Sparta were sown – for each side could claim that the other had broken the Peace. The grey area that both sides found themselves in can be seen in the fact that the Corinthians feared that the Athenians would hold them guilty of breaking the peace, but felt free to accuse the Athenians of having done so (Thuc. 1.52–53), and Thucydides has the Corinthians and the Athenians both sending messengers without heralds' wands to ensure that they are not seen as implying that a state of war now exists. The Athenians then try to have their cake and eat it too, arguing that they will not break the peace, but that they will defend Corcyra. But by taking this line they are effectively guaranteeing that they will break the peace by coming to blows with the Corinthians. One suspects that they may be hoping to palm off all the blame onto the Corinthians. Or perhaps they were hoping that until they fought the Spartans themselves the Peace would not be broken.

After the fragile peace had been threatened by the fighting around Corcyra, the focus moved to the Chalcidice region where the Athenians and Corinthians again engaged in warfare in a geographical area they both considered their own backyard.[19] Oaths were central to this dispute too, for the Corinthians set about fomenting a revolt by the city of Potidaea which would have been listed in the Thirty Years' Peace as an Athenian ally. According to Thucydides (1.58.1), the Corinthians lobbied the Spartans on behalf of the Potidaeans, who, "receiving from the Lacedaemonian officials a promise to invade Attica, *if* the Athenians should attack Potidaea" decided not to wait for the Athenians to attack them but instead entered into league with the Chalcidians and Bottiaeans, and revolted. The Corinthians thus encouraged the Potidaeans to violate their oaths to Athens. But again we have a tension between intentions and reality with the Potidaeans revolting because they believe that the Athenians are going to attack them. Thucydides (1.66) summarizes the state of play at this time:

18 Lendon 2007, 271.

19 Potidaea stood not too far away from the Athenian colony of Amphipolis. Although Potidaea was part of the Athenian empire it clearly maintained close relations with Corinth, for according to Thucydides (1.56.2) the Potidaeans still received magistrates from Corinth in 432. This would appear to be impossible within the framework of the Athenian hegemony. It is tempting to think that there is more going on in the dealings between Corinth and Potidaea than Thucydides has told us.

> The Athenians and Peloponnesians had these antecedent grounds of complaint against each other: the complaint of Corinth was that her colony of Potidaea, and Corinthian and Peloponnesian citizens within it, were being besieged; that of Athens against the Peloponnesians that they had incited a town of hers, a member of her alliance and a contributor to her revenue, to revolt, and had come and were openly fighting against her on the side of the Potidaeans. For all this, war had not yet broken out: there was still truce for a while; for this was a private enterprise on the part of Corinth.

Clearly both sides believe that war is justifiable, but neither is ready to make the first move and give the other the moral high ground. The alleged violations of the Peace seem to be roughly even. But from this point in Thucydides' narrative the accusations against Athens fly thick and fast, as representatives from throughout the Greek world descend on Sparta to complain about Athenian violations of the Peace. The Aeginetans sent delegates to Sparta who complained that they were not autonomous as they were supposed to be "according to the treaty" (*kata tas spondas*),[20] the Megarians complained that they were being excluded from harbours throughout the Athenian empire "contrary to the treaty" (*para tas spondas*) (Thuc. 1.67.2–4), and the Corinthians harangued the Spartans for their lack of support in the fact of Athenian hostility. The message is clear – as far as the Peloponnesians are concerned, Athens has broken the Peace.

As noted above (§9.6.3), after citing the crimes of Athens the Corinthians criticize the Spartans for their inactivity and threaten to make an alliance with Argos. Their demand that the Spartans should "not sacrifice friends (*philoi*) and kindred to their bitterest enemies (*echthistoi*)", and their threat to make "some other alliance (*summachia*)" are both clear references to the oaths of alliance Sparta and Corinth had exchanged. The Corinthians' blunt message that a new alliance "would not be condemned either by the gods who received our oaths, or by the men who witnessed them" must have seemed a slap in the face to the highly religious Spartans. The Corinthians are giving the Spartans a clear message: the Athenians have broken their oaths, and by failing to defend their allies against Athenian aggression they are not only condoning the oath-breaking but violating their own oaths to boot. The Corinthians clearly know their audience well, and the message clearly hit home. For the response of the Spartan ephor Sthenelaidas (Thuc. 1.86) ends by demanding: "vote for

20 Many modern scholars speculate that there may have been a special clause about Aegina, which is not unlikely given that there was a special clause about Argos, and Aegina had once been an ally of Sparta. It may well be that there was a special clause to cover former allies of the Spartans (and their allies) who were now being officially recognized as subjects of the Athenian empire; Sparta would not have wanted to abandon them completely.

war, Lacedaemonians, as the honour of Sparta demands, and allow neither the further aggrandisement of Athens, *nor betray our allies*, and advance on the aggressors *with the gods on our side*", thus responding to both Corinthian arguments. Sthenelaidas' message to his fellow citizens is clear – not only have the Athenians broken their oaths, the Spartans should not break their oaths to their allies.

The Athenians clearly knew their audience too and attempted to defend themselves by sounding warnings about divine punishment. After recounting the many past glories of Athens, the Athenian ambassador urges the Spartans to deliberate long and hard before acting, and reiterates that the Athenians have done nothing wrong. He concludes:

> But we are not yet by any means so misguided, nor, so far as we can see, are you; accordingly, while it is still open to us both to choose aright, we bid you not to undo the treaty (*spondas mē luein*), or to break your oaths (*parabainein tous horkous*), but to have our differences settled by arbitration according to our agreement. Or else we shall invoke as witnesses the gods who heard the oaths, and if you begin hostilities, whatever line of action you choose, we will try not to be behindhand in repelling you (Thuc. 1.78.4).

It is significant that this is the one time that Thucydides explicitly mentions the oaths of the Thirty Years' Peace. At all other points Thucydides merely refers to the *spondai*, but when it comes to the crucial debates that led to the decision by the Spartans to go to war oaths and the gods are at the forefront of his account. Not only do the Athenians urge the Spartans not to break the truce, they warn them that they will call on the gods to witness the violation of their oath to keep the peace. They are clearly aware that the Spartans will take this issue seriously even if they themselves do not.

In the end the Corinthians proved the most persuasive, and the Spartans decided that the Athenians had broken the peace and that going to war would not be impious (Thuc. 1.87.1–3). It may be the first of many occasions on which the Spartans chose to prioritize the oaths they exchanged with their allies over later oaths. But the nervousness the Spartans clearly felt about their decision can be seen in the fact that they still felt it necessary to consult the oracle at Delphi to ask Apollo whether it would be advisable for them to go to war. Apollo responded that if they went to war they would be victorious if they fought with all their might, and that he would help them whether invoked or not (Thuc. 1.118.3).[21] Only after receiving this positive reply did they summon their allies to debate the matter further. The Corinthians were quick to tell the Spartans

21 This answer includes a wonderful get-out clause; if the Spartans do not win it merely shows that they had not fought with all their might!

that Apollo's reply meant that Athens had broken the Peace, and the Spartans agreed with their judgement. Clearly the Spartans are not cautious because they are afraid to go to war – they want to go to war – but they are afraid they might be committing an impious act.[22] Only when they get the green light from Apollo are they truly ready to go to war.

When one looks beyond what Thucydides is emphasizing, and at what he is actually telling us, the debate in 432 is entirely about whether Athens had broken the peace and therefore whether the Spartans and their allies would be breaking their oaths if they went to war. Only after the war had gone against Sparta was there any real thought that the Spartans and their allies might have broken the Peace. This change of heart was what allowed Thucydides to say that both sides had broken the Peace. But the reality is that in 431 only the Athenians were perceived as having been in the wrong. Fear may have driven the Spartans to want war, but if they had not believed that the Athenians had broken their oaths they would never have made the decision to go to war.

10.5 The Peace of Nicias
(*L.A. Kozak*)[23]

The Peace of Nicias is the treaty established between Athens and Sparta ten years after the beginning of conflict in the Peloponnesian War. [24] Sworn in 421, the Peace consists first of a treaty between the Athenians (and their allies) and the Spartans (and their allies) which largely addresses and attempts to make amends for both sides' losses in the war. This treaty is then shortly followed by a fifty-year mutual defence alliance between Athens and Sparta alone. Thucydides' account of the peace process in Book 5 of his *History* is our primary source on the treaties, and it is sometimes confusing—while it gives the exact text of both of the treaties made, the actual timeline of events is hard to piece together.[25] This is part of what makes the relationship between these two treaties maddeningly obscure. We know that both of them ultimately fail. Fighting between Athens and Sparta resumes, arguably in 418 with the Battle of Mantinea,

22 Badian (1993, 59) argues that the only reason the Spartans delayed in going to war was "their usual scrupulous precision regarding oaths".

23 I would like to thank Andrew Bayliss for his feedback, and Alan Sommerstein for his many insightful comments and corrections.

24 For a fuller discussion of the Peace of Nicias and its political ramifications, see Westlake 1971; Seager 1976; Kagan 1981; and Rhodes 2008, esp. 9–12.

25 Westlake 1971.

definitely by the Athenian-Argive attack on Laconia (Thuc. 6.105) and the sending of Gylippus to Sicily (Thuc. 6.93.2) in 414, and continues until 404. This case study will look closely at Thucydides' descriptions of the treaties, how they relate to one another, and their eventual outcomes.

If we are to believe Thucydides, both Athens and Sparta were ready to call a truce when negotiations began in 422, since both sides had suffered losses and had found their expectations of how the war would play out disappointed. There is no need to question Thucydides' ascribed motivations for the treaty here, but I would like to look more closely at the actual text of the first treaty. Its terms pay an extraordinary amount of attention to detail and create an almost institutional peace, on the one hand looking backwards and restoring territories lost in the ten years' war already fought, but also looking forward, with built-in provisions to adapt to changing situations. The treaty seems to take extreme care to ensure the survival of the fifty years of peace that it was intended to generate, and makes the importance of the oath explicit in its vocabulary of swearing as well as by the number of men who are to swear it.[26] The treaty also includes all of the allies of both Athens and Sparta, and even though this ultimately contributes to its undoing, we must acknowledge its ambition. The thoroughness of the treaty suggests two things that might be inferred even without Thucydides' commentary: that the mistrust on both sides was very high, and that every effort was taken with this first treaty to overcome that mistrust.[27]

Thucydides suggests that the Spartans were the initiators of the truce, but that both sides wanted peace, particularly the Athenian Nicias and the Spartan king Pleistoanax, each for their own reasons (Thuc. 5.16–17). Exchanges took place throughout the winter of 422 leading up to the peace, with the Spartans' threat to create permanent fortifications on Attic land (and so formalize their siege of the Attic countryside) made to make the Athenians more open to a settlement[28] (Thuc. 5.17). Here Thucydides'

26 See Andrewes & Lewis 1957 for a discussion of the possible significance of there being seventeen swearers on each side.

27 Cf. Lateiner 2012, 176: "Thucydides describes oaths and oath-taking procedures sixty-eight times in the often telegraphically condensed book 5. These many treaties, shortlived directives but quoted in full, record the grievances, horse-trading, and the futile—if novel—jockeying of major and minor powers. All these agreements fail soon after—except only one between Argos and Athens that barely gains mention—but that is their significance. The oath now held out only feeble hopes." (2012: 176)

28 The permanent fortification of Attica by Sparta did, of course, take place later on in the war, when Sparta fortified Decelea on the advice of Alcibiades in 413 (Thuc. 7.19.1–2).

condensed discussion of events becomes difficult to unpack. In typical Thucydidean fashion, everything happens in one long sentence: the Athenians and Spartans reach an agreement about returning all cities captured during the war, with the exceptions of Plataea and Nisaea; then the Spartans call their allies in for a vote, in which most of them approve the proposals but the Boeotians, Corinthians,[29] Eleans and Megarians vote against them; then the Spartans make the agreement with the Athenians, and it is mutually sworn.[30] Are all the allies present, then, when the oath is sworn? Do the Athenians know which Spartan allies did not support the treaty? It is only later, in the case of the Corinthians refusing to accept the treaty, that Thucydides even tells us that the treaty was held by the Spartans to be binding because the majority of the allies had voted for it (5.30.1): he gives us no details of the discussions between the Spartans and their allies before the treaty was made.

The text of the treaty follows. It begins with a pledge that guarantees the status of Panhellenic temples and festivals and gives free and safe passage to those who want to visit or participate in them, while emphasising the exceptional status of Delphi (Thuc. 5.18.1–2). Next, the treaty details out the participants and duration of the treaty: fifty years of peace between Athens (and allies) and Sparta (and allies), with no violence done between them in any way whatsoever (5.18.3–4). This section has the added clause "without deceit and without harm, on both land and sea" (5.18.3). This clause, like others that we will come across later, gives more evidence for the necessity of the oath: tricks are assumed, and must be fought against in the language of the treaty itself. The next section says that neither the Spartans and their allies nor the Athenians and their allies shall take up arms against the other, in any way; any disputes that arise are to be resolved by "justice and oaths" in such manner as the two sides may agree (5.18.4) – though nothing is said about what is to happen if they cannot agree.

From here, the treaty moves on to detail the restorations that must take place between the two powers, where the majority of *poleis* seized during the war must be given back (with the exceptions, Thucydides tells us in his introduction to the treaty, of Nisaea and Plataea). First it is

29 See Thuc. 5.30. Kagan 1991, 41 argues that the Corinthians are breaking their own oaths to Sparta as part of the Peloponnesian League by refusing the Peace; Bolmarcich 2007a, 28–30 suggests that the Corinthians' use of the "gods and heroes" escape clause would have been widely accepted.

30 "However, it was flawed from the start, in that it ought to have included all the states which had been engaged in the war, but several of Sparta's allies, because they were not satisfied regarding the matters which concerned them most, refused to accept it" (Rhodes 2008, 9).

specified what cities the Lacedaemonians and their allies must return (Amphipolis, Panactum and several others) and what rights their inhabitants are to have (5.18.5–7); then, more briefly, what the Athenians must return (Coryphasium/Pylos, Cythera, Methana, Pteleum, and Atalanta: 5.18.7). This part of the treaty concludes with an exchange of prisoners (5.18.7) and a clause giving the Athenians *carte blanche* to do as they please with the people of Scione, Torone, Sermylia "and any other city which they possess" (5.18.8).

The final section of the treaty, which prescribes the oaths for ratification, reads as follows:

> The Athenians shall make oaths to the Lacedaemonians and their allies, *polis* by *polis*, each side swearing the greatest oath of their own land, seventeen (swearers) from each *polis*. The oath shall be: "I will keep to this agreement and treaty righteously and without deceit." And the Lacedaemonians and their allies shall make oath to the Athenians in the same terms, and both sides shall renew the oath every year (5.18.9–10).

Here the treaty dictates the oath to be spoken by each man for ratification, an oath incorporating an 'anti-deceit' clause.[31] These clauses directly address the mistrust inherent in the situation that calls for the treaty. The level of trust between the two parties involved is so low that there is a base assumption of deception in approaching the oath, which the language of the oath itself must fight against: "I will keep to this agreement and treaty righteously and without deceit." We will see that this anti-deceit clause is repeated (with a minor expansion) in the second treaty that the Athenians and Spartans swear a short time later.[32]

The last part of the treaty that specifies the swearing of the oath is also slightly obscured in Thucydides' account. Where the opening sentence of the treaty says that the Athenians, and the Spartans and their allies, swore to the treaty city by city (5.18.1), and the ratification clause (5.18.9) repeats that idea, mentioning the Spartans' allies twice and again using the phrase "city by city" (*kata poleis*), the end of the document only lists the seventeen swearers from Sparta and the seventeen from Athens (5.19.2). Where are the allies in the actual oath?

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31 See §9.3 above and Wheeler 1984; Bolmarcich 2007a; Gazzano 2005, 13, for discussions of 'anti-deceit' clauses. Bolmarcich 2007a, 35 dismisses the significance of the use of this clause here in the dissolution of the treaty.

32 I do not believe, as Bolmarcich does (2007a, 35), that the prescribed words of the oath here only refer to the section of the treaty that deals with ceasing mutual hostilities—the oath's reference to abiding by the *xunthēkai* and *spondai* suggests that all articles of the treaty are included under the aegis of the oath.

The treaty requires each side to take the "greatest oath of their own land" (5.18.9). While this language certainly points to a relativism of oath-taking formulae, where each *polis* has its own 'strongest oath',[33] the language also suggests a hierarchy of oaths: the oath of the peace, being the "greatest", will necessarily prevail over any other "lesser" oaths that anyone may have taken, or may take in future, in conflict with it.

The treaty starts to wrap up near to where it began, with pillars recording the oaths to be erected not only in Athens and Lacedaemon, but also in Olympia, Delphi, and at the Isthmus, seeming to reinforce the treaty within a framework of Panhellenic religiosity (5.18.10).

Finally flexibility is written into the treaty, so that while the treaty is quite literally fixed in stone, changes can be made, after consultation and agreement, without breaking the original oath:

> And if either party has forgotten something, on any point, about anything, then it will not be a breach of oath for both parties to change whatever seems best to both parties, after just consultations, to the Athenians and to the Lacedaemonians (5.18.11).

This flexibility is quite different from the kind created by so-called escape clauses—which allow that "the gods or heroes" might prevent a party from keeping their oath—and instead is a more practical approach to anticipating changing circumstances over the time for which the treaty is supposed to hold. But, once again, there is an issue in the exclusion of the allies, because this flexibility is left to the discretion of the Athenians and the Spartans without mention of their allies. This means that Sparta's allies, some of whom had refused to agree to the treaty, have no means provided within it for seeking its amendment – which sets up the circumstances of the treaty's eventual failure.

Thucydides ends his account of the treaty by detailing when it was taken, according to both the Athenian and the Spartan calendars (while asserting in the next chapter, 5.20, the superior merits of his own dating system), and listing the seventeen Spartans and seventeen Athenians who pour the libations and take the oath of peace.[34]

But the main provisions of the peace of Nicias are never carried out. The Spartans are designated by lot to restore their captured cities and prisoners to Athenian possession first, and do release their prisoners, but run into trouble when they try to return Amphipolis. The Spartans' behaviour throughout with respect to Amphipolis, after entering into a

33 For more discussion on 'the greatest oath', see §8.2 above.

34 For a brief discussion of these thirty-four swearers, see pp. 180–1.

treaty without full allied support to begin with, arouses suspicion and demands further investigation.

When Sparta sends orders to the Spartan commander Clearidas to hand Amphipolis over to the Athenians, it is he, not the allies who refused the treaty in the first place, who refuses to return the city. Clearidas, thinking that returning Amphipolis will hurt Spartan relations with the Chalcidians, goes to Sparta, along with some Chalcidian representatives (Thuc. 5.21.3). This suggests that the Spartans swore to return the city without first consulting with their commander in Amphipolis, or considering their Chalcidian allies—but which allies is Thucydides referring to here? The treaty mentions several of the Chalcidian *poleis*, and gives them autonomy (except for having to pay the tribute set by Aristides): Argilus, Stagirus, Acanthus, Scolus, Olynthus, and Spartolus. The Chalcidians in general were hostile to Athens, first from the events of 432 surrounding Potidaea, but they also gave crucial help to the Spartan Brasidas when he captured Amphipolis in 424. Nevertheless, we hear nothing of these cities as actual swearers in the treaty, and I think we must assume that they were not included in the vote among the Spartan allies that took place before the treaty was made.

Clearidas and the Chalcidians arrive in Sparta wanting to know "if the agreement could still be tweaked" (*eti metakinētē eiē*). The adjective *metakinētos* is a hapax, and so the meaning is slightly obscure – but the presence of *eti* "still" suggests the sense "altered", rather than "undone". The next line follows, still from Clearidas' perspective: "he found they were bound (*kateilēmmenous*)", presumably referring to the Lacedaemonians.[35] No amendment to the treaty is suggested, even though the treaty included two separate articles for flexibility. Was the return of Amphipolis too crucial to the Athenians for the Spartans to consider trying to renegotiate the treaty on that point?[36] When Clearidas realises that the Spartans are bound to the treaty, he heads back to Amphipolis with orders either to hand the *polis* over or at least to evacuate any Peloponnesians who are in the city.[37] The phrase *ei de mē* "but if not" here as the connective between the two main ideas suggests that the Spartans

35 The only other time that this form of the word is found in fifth-century literature is also in Thucydides, at 1.9.1, where it describes the suitors of Helen under the command of Agamemnon as bound by the Oath of Tyndareus.

36 "The restoration of Amphipolis was Athens' foremost material aim in making peace…" (Kagan 1981, 20).

37 "He (Clearidas) was sent back by the Lacedaemonians with orders to hand over the place (Amphipolis) if possible, but if not, then to evacuate all Peloponnesians there, and he set out on his journey with all speed" (5.21.3).

had accepted the possibility that Amphipolis might not be returned.[38] Does this mean that the Spartans never had any intention of returning it in the first place?

The question of allies arises again immediately after this episode. Thucydides tells us that back in Sparta, the Lacedaemonians "ask those allies who did not accept the treaties to do so", but the allies refuse, "unless they make some more just treaties than these" (5.22.1)—and the Spartans, "since they weren't giving way, sent them away". (5.22.2) What allies are being asked to accept the treaty here? Those who didn't vote in the first place (which seems to include the Chalcidians?) or those who voted against it, but, as we are told later, were bound to the treaty because of the majority vote (5.30)?

Flexibility is thrown out of the window in two ways—the Spartans refuse to negotiate further with their own allies, while no mention is even made of trying to revisit the original terms of the treaty with the Athenians, even though the "more just" treaties that the allies are looking for might very well have been achieved through a re-negotiation of terms. Thucydides is vague here: we are not told which allies he refers to or which terms they find unfair. It is only in 5.30 that we learn why the Corinthians refused to vote for the treaty, or to accept it after it was sworn—they wanted Sollium and Anactorium back from Athens, and had other claims that went ignored.

When they cannot get their allies to accept the treaty, the Spartans decide to strike an entirely new alliance with the Athenians, without any of their allies, immediately approaching the Athenian ambassadors, with the result that "oaths and an alliance happened" (Thuc. 5.22.3). Nothing about this second treaty suggests that it replaces the peace of Nicias; it seems instead to be a supplement that conveniently ignores the Spartan breach of the first treaty.

This new treaty is much simpler than the first. The beginning states bluntly "On the following terms, the Lacedaemonians and Athenians will be allies (*xummachoi*) for fifty years" (5.23.1). As one might expect of a treaty which is an alliance rather than a peace, this one does not deal with the fallout from the previous decade of war as the first treaty did, but only looks to the future, providing both sides with mutual defence against further invasions of any kind, from anyone. The structure of this section of the treaty, as reported by Thucydides, is perfectly symmetrical: the first part covers the possibility of Spartan territory being invaded, while the second covers Athens with exactly the same language:

38 "These orders were a clear breach of both the spirit and the letter of the peace" (Kagan 1981, 20).

> If any enemies should invade the territory of the Lacedaemonians/Athenians, the Athenians/Lacedaemonians will help the Lacedaemonians/Athenians in whatever is the strongest (*ischurotatōi*) way that they can, according to their power. And if they ravage (the land) and then leave, then that city will be an enemy to both the Lacedaemonians and the Athenians, and suffer harm at the hands of both, and any peace must be made by both cities (Athens and Sparta) together. This is to be (observed) justly and with good will and without trickery (5.23.1–2).

As in the first treaty, we see a reciprocity of action here in the text of the oath. And here, the oath also changes the anti-deceit clause, expanding it from what was said before to include "with good will" (*prothumōs*), and repeating it twice, once after each of the two matching stipulations. Perhaps this represents an increased level of anxiety between the two sides, or an attempt to add a further degree of assurance to the oaths.

The next article covered in the treaty is more one-sided, and enlists the Athenians to help in the case of a helot revolt, in a curious change to the vocabulary used above, "with all their strength (*sthenei*), according to their power" (5.23.3). The treaty is to be sworn by the same persons that swore the first, and to be renewed annually at festivals which each will attend in the other's *polis*—the Dionysia and the Hyacinthia respectively, with pillars set up in both *poleis* (but nowhere else—no pillars for this one at Delphi or Olympia, 5.23.5–6). The last sentence of the treaty is another flexibility clause, "if it seems good to the Lacedaemonians and the Athenians to add or to take away anything regarding the alliance, then whatever seems good to them shall be no breach of oath for either" (5.23.6).

This alliance, made not long after the first treaty if we believe Thucydides, curiously has only one effect: the Spartan prisoners that the Athenians took at Pylos are returned. And of course, this is a specific provision that is not guaranteed in this treaty, but was a provision of the first one. None of the other directives of the first treaty are carried out—at this point neither Athens nor Sparta has returned any of the *poleis* that were meant to be returned.

How Thucydides presents the timeline demands questions about the relationships between the two treaties. It seems as though they both happened within a matter of days, or at the longest, weeks—long enough for a message to get to Amphipolis and for Clearidas and the Chalcidians to reach Sparta, but not long enough that the Athenian representatives had left the city, since all the same swearers took the second oath as had taken the first. The order of events suggests very much that the looming failure to return Amphipolis on the part of the Spartans prompted them to make another treaty with Athens, but what would the motivation be for

the Athenians to make such a treaty? [39] Would they not question why the Spartans were so eager to go beyond a mere peace treaty with Athens and make an actual alliance?

Thucydides famously ends his account of the first ten years of the war there, and moves into an in-depth analysis, clearly written after the war ended, of what happened next, and how it fitted into the war as a whole. Beginning with these two treaties, and the issues that they cause with other oaths (despite their claims towards flexibility), he launches into an account of the entire war to follow. "After these treaties and the alliance of the Lacedaemonians and the Athenians…" he begins, "there was peace, for those who accepted them" (5.25.1). He goes on to say that the Corinthians and other *poleis* in the Peloponnese *diekinoun* (another hapax in the fifth century) the treaties, and that, at the same time, "the Lacedaemonians, as time went on, became objects of suspicion to the Athenians, because they were not carrying out some of the terms which had been stated" (5.25.2). There is nothing specific said about what terms of the treaty the Spartans were breaking, though we can assume this refers to the failure to return Amphipolis. But here Thucydides says nothing of Athens returning the *poleis* that the treaty demanded of them, either.

In the next chapter, Thucydides finally dismisses the 'Peace' altogether, when he defends his reckoning of the length of the war:

> And if someone thinks it unworthy to consider the agreement in the middle as "war", then he will not be judging it rightly. Let someone look at it analytically, considering what was done, and he will find that it is not right to judge it as "peace", when they never gave back nor received everything that was agreed, and beyond that, breaches occurred on both sides, in relation to the Mantinean and Epidaurian war and in other things, and the allies in Thrace were as much at war as before, and the Boeotians were observing ten-day truces (5.26.2).

Thucydides seems to include the failure of the restorations dictated by the first treaty as a cause for the war to start up again, and here attributes the fault to both sides. The peace certainly did begin to erode, with the alliance between Athens and Argos and that between Sparta and Boeotia, and the total breach of peace in the battle of Mantinea,[40] which led to further direct conflicts between Athens and Sparta during the Sicilian Expedition and eventually to the fortification of Decelea.

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39 Kagan 1981, 32 says "we can only marvel at (the Athenians') decision to make the alliance".

40 See Rhodes 2008, 9–10 for a detailed breakdown of possible breaches of the treaties sworn between Athens and Sparta before either side formally renounced the treaty.

All the same, the very fact that there was no formal renewal of war until 414, despite a multitude of small breaches, speaks to the will of both sides to keep the peace. There are also a number of factors in these two treaties that suggest that the oaths were taken in good faith. Firstly, despite the error of the Spartans in not ensuring their allies' full inclusion in the first treaty, the treaty was made in good faith, apparently with the allies under oath to accept the treaty voted on by the majority. The first treaty is also tremendously thorough in the detail of its provisions, and built into itself a flexibility appropriate for a peace meant to last for fifty years. When the allies refused to accept the terms of the treaty, rather than using this flexibility to try to negotiate new terms, or take issue with their own allies' breach of oath, Sparta decided to make an alliance with Athens on its own. This second treaty did not seek to address past wrongs again, but instead forged a more solid, defence-based relationship between the two *poleis* for the future. The return of prisoners that the first treaty called for happened on both sides, but only after the second treaty was sworn to; of the *poleis* that were to be restored, none was returned by either side. This is the main reason that, despite continued talks, the Athenians and the Spartans started to suspect each other through the summer that followed the spring of the Peace (Thuc. 5.35.2). Thucydides makes it clear that the Spartans are more at fault, because they had drawn lots to restore their captured *poleis* first, but had failed to do so, so that the Athenians had reason not to return theirs. The fact that talks continue, and that the Spartans persuade Athens to remove the Messenians from Pylos, with the promise that they would continue to work on getting Amphipolis and Panactum back and on getting the Boeotians and the Corinthians to finally accept the treaty (5.35.5–7), suggests that either the Spartans were very manipulative and the Athenians very gullible during this time, or that both sides were making every effort to keep the peace.

With the change of Spartan ephors the following winter, however, the desire for peace (if it ever truly existed) starts to erode, and the Spartans begin to actively encourage their allies to work against the Athenians in the shift of power alliances, even at the expense of the "Peace" (Thuc. 5.36). The Boeotians, Corinthians and Megarians, the same Spartan allies who had refused the Peace, took oaths among themselves to create a mutual defence alliance (5.38), while various manoeuvres took place among the other powers (including Sparta) to join with Argos, though eventually, it is Athens herself that makes an alliance with Argos.

Despite all this, Sparta and Athens continue negotiation throughout 420, especially with regard to Pylos and Panactum being returned. Unfortunately, the Spartan strategy to gain Pylos back involved making an alliance with the Boeotians. This new alliance breached the Spartan-

Athenian alliance (Thuc. 5.39.3), but also allowed the Spartans to regain Panactum from the Boeotians and return it to Athens, with a view to exchanging it for Pylos. The problem is that the Boeotians dismantled Panactum before returning it, which the Athenians found unacceptable (5.42.2). Thucydides says that this fact, coupled with Alcibiades' injured pride at being excluded in the original negotiations of the Peace, spurred Athens on to making the treaty with Argos, along with the Mantineans and the Eleans (5.47; cf. *IG* i^3 83.2–4, Paus. 5.12.8). This alliance, like the Spartan alliance with the Boeotians, breaks the clause in the second Athens-Sparta treaty that dictates that neither side can make war or peace without the other[41] (at least, this is how Thucydides himself, 5.39.3, claims that the Spartans understood this clause; his text of the treaty itself says only that if either state is attacked the other shall come to its aid and "both *poleis* shall settle <the conflict> together", 5.23.1–2). The first treaty remained in tatters: though the Spartans returned their prisoners, they refused to return Amphipolis and returned Panactum only after the Boeotians razed it. The Athenians, in turn, had returned their prisoners, but they had not returned Pylos/Coryphasium, Cythera, Methana, Pteleum, or Atalanta. The second treaty breaks as soon as either power makes an alliance without the other (especially if it allies with a state hostile to the other), and both parties do just that. "So the treaty and alliance were made, but those between the Lacedaemonians and the Athenians were not renounced by either party because of this" (5.48.1).

The Peace is only formally renounced when the Spartans launch a sneak attack by sea against the Epidaurians; the Argives complain that Athens allowed them to, in breach of *their* mutual alliance, and say that they will feel hard done by unless the Athenians reoccupy Pylos with Messenians and helots against the Spartans (Thuc. 5.56.2). Alcibiades, responding to this, orders that the *stele* in Athens that held the inscription of either the first or the second treaty between Athens and Sparta be amended to say that "the Lacedaemonians have not abided by their oaths" (5.56.3; cf. Ar. *Lys.* 513–14). This was an unprecedented action at the time,[42] but finally, and publicly, declared the Peace of Nicias broken.[43]

41 *Contra* Holladay 1977, 56 who says there was no formal breach; see also Westlake 1971, 316: "Thucydides twice mentions an agreement between Athens and Sparta to refrain from making war or peace with other states except by mutual consent ([5.]39.3, [5.]46.2) although the text of their alliance, which he has earlier reproduced verbatim … does not include any stipulation of this kind."

42 Bolmarcich 2007b, 481.

43 Bolmarcich 2007b makes a good case against thinking the oath would only be considered broken had the stele been broken, *contra* Gomme, Andrewes & Dover 1970 ad loc., Holladay 1977, 56 n. 16.

Further breaches occur with Alcibiades' own excursion against Orchomenus (5.61),[44] and in the Battle of Mantinea, where the Spartans and Athenians met each other in open battle for the first time since the Peace was negotiated. Even so, Thucydides claims that the decisive breach of the Peace did not come until 414, when Athens came to Argos' aid against the Spartans and raided Laconia (6.105.1–2). The arrival of Gylippus in Syracuse in 414 signalled Sparta's direct intervention against Athens' Sicilian expedition (7.2.3), opening full-out hostilities between the two powers again, with disastrous results for the Athenians.

The Peace of Nicias was an ambitious attempt at peace between two powers that were, unfortunately, not stable enough, either in their internal politics or in their alliances, to actually fulfil and maintain the provisions of the treaties. The first treaty, the Peace, tried to make amends for the losses suffered during the Archidamian War, but the lack of allied support for the treaty on the Spartan side largely undermined its effectiveness. The second treaty, which established a defensive military alliance between the two *poleis*, suffered because of the various manoeuvres of anti-peace factions within both cities, as well as the jockeying with other powers to create stronger alliances, some of which were created in breach of the Athens-Sparta alliance. Despite these destructive factors, the Peace held, after a fashion, for seven years, and did give both cities a welcome break from all-out war. We should also consider the fact that both parties refused to completely give up on the Peace despite several failures to implement the first treaty's provisions and to maintain the articles of the second treaty, which suggests that the treaties had been made in good faith and that few in either city were eager to revert to full-scale conflict. Ultimately, both treaties failed because internal and external political pressures for power overcame a mutual will for peace.

10.6 The King's Peace of 387/6: reconsidering Sparta's alleged violation of her oaths

Whereas both the Thirty Years' Peace and the Peace of Nicias had been treaties between two power blocs (viz. "the Athenians and their allies" and "the Spartans and their allies"), another form of peace treaty developed in the fourth century – the so-called "common peace" (*koinē eirēnē*). The first "common peace", the so-called King's Peace of 387/6, was a sworn peace treaty between the Spartans and their allies on the one side, and the other

44 Holladay 1977, 56.

Greek states not allied to them on the other, more or less as equals. But it would be a mistake to view the treaty as one based on equality. First, the treaty was agreed not because the states involved decided on peace amongst themselves, but because the Spartans had been able to arrange the threat of armed intervention by the Persian King – hence the name "the King's Peace" (*IG* ii² 103, 23–4).[45] Secondly, the wording of the King's threat makes it clear that he and/or the Spartans viewed the Greek world as still comprising two power blocs. According to Xenophon (*Hell.* 5.1.31) the Greek states all swore to observe the provisions laid down by the Persian Great King Artaxerxes II:

> King Artaxerxes thinks it just that the cities in Asia should belong to him, as well as Clazomenae and Cyprus among the islands, and that the other Greek cities, both small and great, should be left autonomous, except Lemnos, Imbros, and Scyros; and these should belong, as of old, to the Athenians. But if either of the two parties does not accept this peace, upon them I will make war, in company with those who desire this arrangement, both by land and by sea, with ships and with money.

This is not (at least in the eyes of Xenophon and Artaxerxes) a general peace among the Greeks as equals, but rather one between two parties. Xenophon speaks clearly of "each of two" (*hekaterous*), not "each of many" (*hekastous*). This is the same wording that was later used in the Peace of Philocrates between Athens and Philip of Macedon. The identity of those two "parties" is made clear elsewhere in Xenophon's account; he refers not only to "the Lacedaemonians and their allies" (noted by all modern commentators) but also (surprisingly overlooked by most modern commentators) "the Athenians and their allies" (*Hell.* 5.1.25), and later (*Hell.* 5.1.35) he summarizes events as follows:

> Thus it was that this peace was established between the Lacedaemonians on the one hand and the Athenians and their allies on the other, the first since the outbreak of the war which followed the destruction of the walls of Athens.

The fact that the treaty was cast as an agreement between "the Lacedaemonians … and the Athenians and their allies" had serious consequences for how the treaty was formalized and policed, for the Spartans and their allies appear to have entered the treaty as a distinct bloc, whereas the Athenians, Thebans, Argives, and Corinthians were split apart. To put it another way, "the Lacedaemonians and their allies" remained in alliance with each other, whereas the other alliance-grouping

45 The threat of the Persian king is clear in Xenophon's statement (*Hell.* 5.1.29) that the Athenians were motivated to make peace "now that the King had become an ally of the Lacedaemonians".

was effectively annulled by the King's Peace. This left Sparta – Artaxerxes' ally – in a position of almost complete authority in the Greek world.

Artaxerxes' threat that he would make war on anyone who refused the peace is fundamental to the peace. Isocrates (4.176) goes so far as to call this a "command" (*prostagma*). This could not be more different from treaties such as the Thirty Years' Peace or the Peace of Nicias which had been decided by two hegemonial powers on behalf of their allies. On a certain level all the Greeks were swearing to accept the Persians as the arbiters of their foreign policies. But on another – because the Spartans had "effected an agreement that the King should be an ally of the Lacedaemonians if the Athenians and their allies refused to accept the peace which he himself directed them to accept" (Xen. *Hell.* 5.1.25), the states agreeing to the peace were actually accepting Sparta as its guarantor. The fact that the peace was also known as the "Peace of Antalcidas" (Xen. *Hell.* 5.1.36) points to the reality behind the King's Peace – "Sparta held the whip hand".[46] If the Greeks did not accept the peace then Artaxerxes and the Spartans would make war on them. This close relationship between the Spartans and Artaxerxes was effectively built into the Peace, with the Spartans becoming the Great King's instrument of authority in Greece. If any state broke the Peace the Spartans would act as Artaxerxes' eyes, ears and strong right arm. It is not the gods alone who will punish violations of this oath – the Persian Great King and his deputies the Spartans will do that.[47]

The aim of this discussion is not to rehash territory already covered by those who have analysed the ins and outs of the King's Peace, but rather to analyse one particular aspect of the treaty, the manner in which the Spartans exploited the stability and security the oaths gave them to manipulate Greek affairs to their own advantage. This issue has been profoundly misunderstood. Modern scholars typically see the Spartans as shamelessly and hypocritically trampling on the oaths they had sworn by violating the autonomy of the Mantineans, Phliasians, and others, while the rest of the Greeks stood by impotently until the Thebans rose up against them in the 370s. For instance, Kennell recently argued:

46 Kennell 2010, 137.

47 For discussions of Sparta's potential status as *prostatēs* of the King's Peace see Seager 1994a, 118–9, Dillery 1995, 205ff, Cartledge 1987, 370.

> With Persian support, Sparta now acted as the Peace's self-appointed policeman, broadly interpreting the autonomy clause [of the treaty and oath] to justify intervention in any state on nearly any pretext.[48]

Modern scholars have been particularly critical of Xenophon's partiality towards the Spartans, and any failure to criticize their actions vis-à-vis the King's Peace tends to be dismissed as bias on his part. In particular, modern scholars struggle to reconcile Xenophon's explicit statement that their sacrilegious intervention in Thebes brought about Sparta's fall (*Hell.* 5.4.1) with his consistent lauding of Agesilaus' piety.[49] But a more straightforward approach to our main source allows a very different interpretation of Spartan behaviour at this time. For Xenophon there is just one wrongful act – the seizing of the Cadmea in 382 – for which he is critical of the Spartans, and for this act he does not hold Agesilaus responsible. Xenophon clearly does not see the actions against Mantinea and Phlius as wrongs committed by Sparta or his hero. Thus Agesilaus can remain "a completely good man" (Xen. *Ages.* 1.1), and a pious one at that, because in Xenophon's eyes (and their own) the Spartans were not violating the King's Peace. In fact, their actions had nothing to do with the Peace at all. The Spartans can and should be seen to be policing their allies who have violated an older oath of alliance with them.

As soon as we view the Spartans as policing a prior oath – the oath to follow the Spartans etc. – rather than violating a new one, we can see how Xenophon could reach such seemingly contradictory conclusions about Spartan behaviour without the need to dismiss him as incapable of being impartial on all matters relating to Agesilaus and Sparta. The following discussion will demonstrate that the Spartans interpreted their sworn obligations to the King's Peace as a mechanism for policing the oaths of their allies. This is in no way intended to be an apologia for Spartan behaviour during the period of the King's Peace or for Xenophon's partiality. On the contrary, the Spartans' behaviour will be seen as cynical, self-serving, and imperialistic, and Xenophon will be shown to be over-partial in his acceptance of the Spartan point of view. But it will be argued that except for the occupation of Thebes Spartan actions were not sacrilegious. Xenophon is not biased on *that* matter. Until the Spartans attack Thebes they should be seen as keeping to the letter of their word, if

48 Kennell 2010, 137. Buckler (with Beck 2008, 72–3) argues, "from 386–378 he [Agesilaus] used the treaty to seek revenge upon his old rivals, to discipline allies whom he considered recalcitrant, and to interfere in the aspirations of others who had honoured their treaty obligations".

49 This is perhaps nowhere clearer than Cawkwell's judgement (in Warner 1978, 279) that there is a "curious dichotomy in Xenophon's mind".

not the spirit. The key to understanding their behaviour is how the Spartans and the other Greeks interpreted Artaxerxes' directive that the Greeks should be left autonomous.

The importance of the actual wording of the oaths is made clear by the dispute between Agesilaus and the Thebans at the time of their swearing. The exact oaths sworn are somewhat unclear, but Xenophon (5.1.35) claims that they swore "to abide by the Peace which the King sent down".[50] The key issue was that they should abide by the King's directive that all the Greek cities should be autonomous. According to Xenophon (*Hell.* 5.1.32):

> All the others (*hoi alloi hapantes*) swore that they would steadfastly observe these provisions, but the Thebans claimed the right to take the oath in the name of all the Boeotians. Agesilaus, however, refused to accept their oaths unless they swore, just as the King's writing directed, that every city, whether small or great, should be independent. But the ambassadors of the Thebans said that these were not the instructions which had been given them. "Go then," said Agesilaus, "and ask your people; and report to them this also, that if they do not so act, they will be shut out from the treaty."

The Spartans and Thebans would clash again over this issue when the Peace was renewed in 371 BC. According to Xenophon (*Hell.* 6.3.19):

> On these terms the Lacedaemonians swore on behalf of themselves and their allies, while the Athenians and their allies took the oath separately, city by city. The Thebans "gave their names for the register" (*apograpsamenoi*) among the cities which had sworn, but on the following day their ambassadors came in again and demanded that the writing be changed to read that "the Boeotians" instead of "the Thebans" had sworn. Agesilaus, however, replied that he would change no part of what they had sworn to and signed in the first place; but if they did not wish to be included in the treaty, he was prepared, on their instructions, to strike out their names.[51]

The writing on the stone was perhaps even more crucial than was the case with typical treaties. Implicitly all the Greeks were included in the peace, but there must have been a grey area when it came to states that had not sworn or been recorded on the stele. There would have been no lists of Greek cities available for reference at the time the peace was made,[52] so it

50 Xenophon (*Hell.* 5.1.32) earlier reported that the ambassadors of various Greek states told Tiribazus that they would swear "to remain steadfast to the provisions".

51 Diodorus (15.38.3) provides a similar story (unfortunately misdating it to the renewal of the Peace in 375 BC), with Epaminondas insisting "that all Boeotia should be listed as subject to the confederacy of the Thebans", and the Athenian Callistratus opposing this "in the most contentious manner".

52 Rhodes 2008, 19.

must have been the case that if appropriate representatives were present and swore, a state would have been recorded on the stele and therefore included in the treaty. Any state not present when the oaths were sworn would have been included implicitly rather than explicitly.

On neither occasion that the Thebans objected was Agesilaus daunted by their objection. Both times the Spartans responded by mobilizing their forces, with failure to swear to the peace interpreted as an act of war. Xenophon (*Hell.* 5.1.33) states that in 387:

> Agesilaus, hating the Thebans as he did, wasted no time. He won over the ephors to his way of thinking, and then made the sacrifices preparatory to a campaign … But before he had moved on from Tegea, the Thebans arrived with word that they would leave the cities autonomous. And so the Lacedaemonians went back home, and the Thebans were forced to agree to the treaty, leaving the Boeotian cities autonomous.

When they squabbled again in 371 the Thebans decided to give up on the Peace altogether and chance their arm against the Spartans (Xen. *Hell.* 6.3.19). It was a gamble that paid off; Spartan hegemony was permanently ended by the disastrous defeat at Leuctra only a few weeks later.

On both occasions the stances of the Thebans and Agesilaus were more than bitterness or belligerence. By agreeing to a treaty that guaranteed autonomy and then swearing as Thebes alone, the Thebans were not only "signing away" any claim to hegemony in Boeotia, they were also calling on the gods to witness their renunciation. The Thebans realised what they had done too late, and tried to change things retrospectively. The Athenians on the other hand had nothing to fear from swearing to the King's Peace – in fact they effectively gained from it – because their oaths guaranteed their hold on Scyros, Lemnos and Imbros.[53] But the Spartans were the real winner, because the oaths guaranteeing autonomy allowed them not only to dismantle the Boeotian League, but also to free Corinth from its Argive garrison and reclaim the Corinthians as allies. In summarizing the King's Peace, Xenophon (*Hell.* 5.1.36) stresses that "by insisting on the independence of the cities they had gained in Corinth an additional ally", which is precisely what the Argives had earlier feared would happen.

Although it is not clear, it seems likely that the Spartans swore on behalf of their allies in 387/6 as they did in the renewal of the peace in 371 BC (Xen. *Hell.* 6.3.19).[54] Such an arrangement was not considered

53 Schwenk 1997, 17.

54 Seager (1994b, 181) claims that in 371 "the Spartans, as usual, swore for themselves and their allies". It was in fact not usual at all. The Spartans had not

contrary to an autonomy clause in 371, so there is no reason to assume that it would have been considered so in 387/6 either. We have evidence from as early as the alliance between Athens, Argos, Mantinea, and Elis ca.420 for hegemonial powers swearing on behalf of their allies, and Sparta's allies were all obliged to follow the Spartans and have the same enemies and friends, so an oath from the allies was technically unnecessary. If we assume that the Spartans did swear on behalf of their allies, much of what happens after the peace was formalized becomes even easier to understand. For the oaths of the King's Peace effectively cancelled out pre-existing oaths that compromised autonomy. Thebes could no longer control Boeotia, and Argos could no longer control Corinth. Athens' control of Lemnos, Imbros, and Scyros was written into the peace treaty, but any imperial pretensions the Athenians had elsewhere would have to be abandoned. But Sparta was clearly not compelled to surrender her allies. Indeed, one of the first consequences of the peace was the reversion of Corinth to her status as an ally of Sparta in accordance with her older oath of loyalty. With Theban control of Boeotia broken, the city of Plataea was re-established (Paus. 9.1.4), and Thebes was forced back into alliance with Sparta as she had been prior to the Corinthian War.[55]

The potential danger the autonomy clause posed to all those swearing the oaths comes out in Plutarch's account of the wrangling between Epaminondas and Agesilaus in 371. According to Plutarch (*Ages.* 28.1–2), when Epaminondas spoke eloquently about the need for a peace "secured on the basis of equality and justice, saying that it would only endure if all parties were on an equal footing" Agesilaus went on the attack, asking whether he thought the cities of Boeotia should be free and equal. Rather than answer that question, Epaminondas asked his own: "Did Agesilaus think it just for Laconia to be made independent?" Agesilaus reacted with fury, and war with Thebes followed. Epaminondas' argument could only have led to an angry response from Agesilaus. The Spartans had sworn to the Peace of 371 not on behalf of themselves, but on behalf of their entire alliance system, whereas the Thebans had only sworn as Thebes. By

sworn on behalf of their allies when the Peace of Nicias was made, and that was one of the reasons why it failed as a peace treaty (§10.5)!

55 The Plataean speaker of Isocrates 14 tells the Athenians (27) that the Thebans "abandoned you and entered into the alliance with the Lacedaemonians" after the King's Peace. Buckler (with Beck, 2008, 91) dismisses Isocrates as "worthless, except as an exercise in rhetoric", but fails to explain why both Pausanias (9.1.4) and Plutarch (*Pelop.* 4.5) tell us about the aftermath of that alliance. Pausanias claims that "when Lacedaemon was at war with Mantinea, Epaminondas is said to have been sent with certain others from Thebes to help the Lacedaemonians".

demanding to swear on behalf of Boeotia, the Thebans clearly wanted to formalize their hegemony over the whole of Boeotia just as the Spartans had done for the Peloponnese (except Argos and Achaea) by swearing on behalf of their allies. But by suggesting that the idea of autonomy could apply at the sub-*polis* level Epaminondas was arguing that the Spartans did not have the right to swear on behalf of their *perioikoi* let alone their allies. If such an idea took hold, the Spartans would have been forced to surrender control not just of their allies, but also of their subject *perioikoi* and the Messenians. If such an arrangement was formalized with oaths, the highly religious Spartans would have felt compelled to adhere to their oaths. This was clearly something they could not countenance. It is worth bearing in mind that once they had lost control of Messenia the Spartans refused to take part in common peaces on the grounds that they would be acknowledging Messenian independence, and on at least one occasion they tried to change the wording of a sworn agreement so that they could leave room to attack and reconquer Messenia while claiming to keep the peace.[56]

With Sparta swearing to the King's Peace on behalf of her allies, this effectively produced a situation where the Spartans (more often than not Agesilaus) could treat the oaths they exchanged with their allies as having priority over the autonomy clause of the King's Peace. The Mantineans, Phliasians, and others who entered the King's Peace as the allies of Sparta, effectively surrendered any claim they had to real autonomy. Their autonomy was what their hegemon allowed them. Their role therefore was to follow and to have the same enemies and friends as Sparta. Agesilaus and the Spartans can be seen to have exploited this loophole ruthlessly over the following years.

It is telling that after ensuring the autonomy clause was interpreted in such a way that the union between Argos and Corinth was ended and

56 According to Demosthenes (16.16–17) the Spartans tried to arrange a renewal of the common peace of 362 in 353 replacing the wording "having what they hold" with "possessing their own territory". Demosthenes claims: "The policy of the Lacedaemonians seems to me to be very sharp practice. For they now say that Elis ought to receive parts of Triphylia, and Phlius the district of Tricaranum, and certain Arcadian tribes the land belonging to them, and that we ought to have Oropus, not because they want to see each of us enjoying our own, far from it – that would be a tardy exhibition of philanthropy – but they want it to be generally supposed that they are co-operating with each state to recover the territory that it claims, so that when they march against Messene on their own account, all the others will join heartily in the expedition". Clearly the Spartans felt that "possessing their own territory" would allow them sufficient room to reconquer what they felt to be their own territory. Cf. Ryder 1965, 86; Rhodes 2008, 25–7.

Theban hegemony in Boeotia broken, Spartan attention was soon focused almost entirely on the Peloponnese,[57] and would remain so for several years. Xenophon (*Hell.* 5.2.1) states that the Spartans turned their attention to their recalcitrant allies, arguing that they were aiming to "punish" them:

> Things then had gone just as the Spartans wanted and they now turned their attention to those of their allies (*summachoi*) who had been against them in the war or had been more inclined to the side of their enemies. These, the Spartans decided, should be punished or reorganized in such a way that they could not be disloyal (*apistein*).

Clearly their intention was not only to punish allies who had been disloyal but also to ensure that such disloyalty would not recur. The Spartans' first act was against the Mantineans (Xen. *Hell.* 5.2.5ff; D.S. 15.12.1; Strabo 8.3.2; Paus. 8.8.9). Xenophon makes it clear that the Mantineans were targeted because the Spartans "could not feel confident that Mantinea would not side with their enemies". Clearly the Spartans did not trust the Mantineans to keep their oaths of alliance. The Mantineans had broken their oath in the past, so the Spartans had good cause for not trusting them. As far as the Spartans were concerned, the Mantineans required punishment because they had sent grain to Argos when Sparta was at war with Argos, i.e. they had broken an oath to have the same enemies and friends. They had also refused to assist the Spartans in previous campaigns under the pretext of a sacred truce, and therefore they had refused to follow when the Spartans led. They had demonstrably broken both the oath to follow the Spartans and the oath to have the same enemies and friends.

Given that the Spartans had sworn to the King's Peace on behalf of their allies their need to able to trust their allies is obvious. To ensure that the Mantineans caused no further problems the Spartans forced them to tear down their walls and live in separate villages. Modern scholars typically see this as an example of Sparta unjustly exploiting the autonomy clause of the King's Peace to their own advantage.[58] By this reckoning the Spartans are therefore both hypocritical and near enough to violating their oaths. Thus, Ryder argues, "it is hard to see how the Spartans could have justified by reference to the Peace the dismemberment of the city into

57 The lack of interest the Spartans display outside the Peloponnese is clear. Seager (1994b, 158) observes that it was five years until affairs in the wider Greek world engaged Spartan attention.

58 Ryder 1965, 47; Buckler (with Beck) 2008, 72–3; Rhodes 2008, 19–20 to name but a few.

villages".[59] But there is nothing in Xenophon or Diodorus to suggest that the Spartans were enforcing the autonomy clause of the King's Peace by breaking up Mantinea into its constituent villages; the Spartans do not justify it that way. The Spartan demand that the Mantineans tear down their walls is prompted by the the fact that the Spartans do not feel confident that Mantinea will not join their enemies, i.e. they are not confident that Mantinea will not break their oaths of alliance with them again. There is in fact little to suggest that the Spartans are paying any attention to the King's Peace except for the fact that they know that it affords them protection to act as they see fit.[60]

Phlius was next to feel the heat from Sparta. According to Xenophon (*Hell.* 5.2.8) Phliasian exiles "had observed that the Spartans were reviewing (*episkopountas*) the way in which their various allies had behaved towards them during the [Corinthian] war", and reminded the Spartans that whereas they had "joined in all expeditions" (*synestrateuonto*) the other Phliasians had been "willing to follow them nowhere". The tenor of this accusation is clear – the exiles had kept their oath to follow the Spartans whithersoever they led, whereas the other Phliasians had not. The Spartans then intervened in Phliasian affairs to restore the exiles to power. As with their treatment of the Mantineans, the Spartans should be seen as using the King's Peace as a screen to police the earlier oaths of alliance. Safe in the knowledge that they cannot be legally attacked (the threat of the Persian King looms large here) the Spartans can reassert their hegemony over their recalcitrant allies. This is not to say that the Spartan actions were good – merely that they did not constitute a violation of their King's Peace oaths, and that they had nothing at all to do with the autonomy clause.

Crucially, it was only when they moved against Olynthus in 382 that the Spartans were claiming to act against a violation of the King's Peace.

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59 Ryder 1965, 47. Rhodes (2008, 20) tries to find an answer by suggesting that "probably the Spartans were invoking the common peace and claiming that it was the individual villages rather than the united city whose autonomy was guaranteed".

60 This can be seen in Diodorus' claim (15.5.5) that the Mantineans dispatched ambassadors to Athens asking for aid, but their request was refused because "the Athenians did not choose to make a breach of the common peace". Diodorus (15.5.1–2) casts the Spartans as making war on the Mantineans without regard to the "standing treaty" (*gegenēmenōn spondōn*). But any argument resting on Diodorus' testimony is marred by the fact that Diodorus (unfortunately unsurprisingly) has his chronology all wrong; first he has the Spartans keep to the King's Peace for two years before they attack the Mantineans, and it is only after Mantinea has a Spartan-inspired regime change and a counter revolution that the Spartans attack.

Xenophon (*Hell.* 5.2.12–3) states that ambassadors from Acanthus and Apollonia came to Sparta to complain that the Olynthians had "attached to themselves some of the cities with the provision that all should live under the same laws and be fellow-citizens, and then they took over some of the larger cities also", and that they had moved against Amyntas III of Macedon and were "in possession of a great number of Macedonian cities, including especially Pella, which is the largest of the cities in Macedonia". Olynthus was therefore infringing the autonomy of Greeks by compelling cities to change their laws and occupying various Macedonian cities. Diodorus (15.19.3) confirms that Amyntas made an alliance with the Spartans after the Olynthians refused to return land belonging to Macedon that had been surrendered in a past period of Macedonian weakness.

But unlike when dealing with their recalcitrant allies, the Spartans were uncertain how to treat Olynthus. Xenophon (*Hell.* 5.2.20) makes it clear that when the Spartans consulted their Peloponnesian allies as to whether they should act against Olynthus they asked their allies not whether the King's Peace had been broken, but what would be best for the Peloponnese and the allies themselves. [61] The allies "vote" for war and only then does Sparta take the lead. It is intriguing that the Spartans already think that Olynthus has violated the King's Peace, but still dither about what to do. There is no such nervousness in their behaviour regarding Mantinea and Phlius – clearly the Spartans are more confident when it comes to policing the oaths of their Peloponnesian allies than the oaths of the King's Peace. Their confusion and dithering is not that dissimilar to their behaviour regarding the Thirty Years' Peace, which begs the question as to whether the Spartans want to police the King's Peace at all. It may be merely that the Spartans were always more concerned with events in the Peloponnese, but the deciding factor may be that because the oaths of their allies are older, the Spartans feel secure in giving them priority over the King's Peace oaths.

After the Olynthians were defeated the cities of Chalcidice became allies of Sparta. We have already seen that the Olynthians were forced to swear to follow the Spartans whithersoever they might lead and to have the same enemies and friends (Xen. *Hell.* 5.3.26). The fact that the Spartans could compel the Olynthians to swear such an oath without any censure being recorded by our sources confirms that Sparta's alliances with her allies effectively sat outside the King's Peace. It perhaps also suggests that the Spartans are adopting a "belt and braces" approach to international relations. Clearly the King's Peace oaths were enough to

61 Seager 1994b, 159.

ensure that Olynthus did not expand its power-base, but compelling them to swear the same oaths as Sparta's own allies would also allow the Spartans the right to police their actions more fully in the future if necessary.

But the Spartans crossed a line when in 382 they interfered in Theban affairs, installing a garrison there and setting up a pro-Spartan regime. Modern scholars and our surviving sources (D.S. 15.19.4, 20.2; Polyb. 4.27.4; Plut. *Ages.* 23.3; Justin 8.1.5) are unanimous in seeing the Spartans as acting illegally. Even Xenophon could not condone the acts of his beloved Spartans, arguing (Xen. *Hell.* 5.4.1) that the violation of Theban autonomy (and therefore also a violation of the King's Peace oaths) was the cause of Sparta's downfall more than a decade later. Agesilaus comes out of this atrocity badly even though he was not explicitly involved, for it was his decision that led to Phoebidas' acquittal for his actions in seizing the Cadmea and installing a garrison there (Plut. *Ages.* 23–24; D.S. 15.20.2). Buckler claims:

> Agesilaus … stands as the villain of the piece. He successfully defended an officer who was guilty of perfidy, one who broke the oaths to the gods, thereby committing sacrilege. Even Xenophon, no friend of Thebes but an avid admirer of both Agesilaus and Sparta, stood appalled by these events. Those who see Agesilaus as a devout man must account for his cynical disregard of religion. He explained it himself in terms of expediency by openly admitting that he would do everything possible to advance Spartan power.[62]

But not all Spartans agreed with the decision to compromise the autonomy of Thebes.[63] We have clear evidence of a debate within Spartan society – a debate which centres on oaths. According to Diodorus (15.19.4):

> At this time the kings of the Lacedaemonians were at variance with each other on matters of policy. Agesipolis, who was a peaceful and just man and, furthermore, excelled in wisdom, declared that they should abide by their oaths (*emmenein tois horkois*) and not enslave the Greeks contrary to the common agreements. He pointed out that Sparta was in ill repute for having surrendered the Greeks of Asia to the Persians and for organizing the cities of Greece in her own interest, although she had sworn in the common agreement (*en tais koinais synthēkais ōmosan*) that she would preserve their autonomy. But Agesilaus, who was by nature a man of action, was fond of war and yearned for dominance over the Greeks.

62 Buckler (with Beck) 2008, 78. Buckler has argued that Phoebidas' raid cannot have happened by chance and that Agesilaus must have known about it.

63 Buckler (with Beck, 2008, 77) observes that "a number of pious Spartans expressed outrage at Phoebidas' conduct".

As far as Diodorus is concerned Agesilaus is a warmonger, whereas Agesipolis declares that the Spartans should abide by their oaths and not enslave the Greeks contrary to the common agreements. But the situation was not that simple. First, Agesilaus and Agesipolis were not enemies, despite their obvious differences of opinion.[64] Secondly, Agesilaus is known to have been particularly pious even for a Spartan. Agesipolis' comment is clearly made in the context of a debate at Sparta about how Sparta should be behaving. It does not take a great stretch of the imagination to see Agesipolis' argument as a response to Agesilaus' claim that the Spartans have been policing another oath – that sworn by their allies. Agesipolis' argument sounds like one designed to talk the pious Agesilaus around to his way of thinking. It was a good argument, but it clearly did not succeed. The majority of the highly religious Spartans and the famously pious Agesilaus were able to condone this violation of the autonomy clause. Agesilaus argued that Phoebidas' actions could be tolerated if for "the good of the city", a comment which appears at odds with both his and the Spartans' reputation for piety. It would therefore be easy to dismiss this as a sign that the Spartans did not care if they were acting irreligiously – but this does not accord with what we know about the Spartans or Agesilaus. It is worth bearing in mind that Agesilaus' judgement on Phoebidas is remarkably similar to Aristides' argument that the removal of the Delian League treasury from Delos to Athens would be unjust but advantageous. Rather than assume that the Spartans are acting out of character, or that Xenophon is hopelessly naïve when it comes to Agesilaus, we should ask ourselves whether there is another way of viewing the evidence we have.

There is indeed another way of looking at things – the Spartan way. Agesilaus and the Spartans were able see themselves as acting piously because they were able to identify an (admittedly rather specious) pretext for the capture of Thebes. According to Xenophon (*Hell.* 5.2.30) the pro-Spartan Theban politician Leontiadas told his countrymen that the

64 The Agesilaus vs. Agesipolis theme is also apparent in Xenophon's account but in a very different way. Xenophon states that Agesilaus asked not to lead the campaign against the Mantineans because they had helped his father Archidamus. He goes on to explain that Agesipolis led the forces against the Mantineans even though his father Pausanias (who was still alive) had been on exceedingly friendly terms with the Mantineans. All this passage is useful for really is seeing how Xenophon is yet again keen to contrast the moral rectitude of his hero Agesilaus with the supposed failings of his royal rivals. But fundamentally the two kings were friends. Xenophon (*Hell.* 5.3.20) notes that when Agesilaus learned of Agesipolis' death "he wept and mourned for the loss of a comrade" rather than celebrated the death of a rival.

Spartans in the Cadmea had "no hostile intentions against anyone except those wanting to start a war", and denounced his rival Ismenias as "being a warmonger" (*polemopoiounta*) – i.e. he was about to break the Peace. In a speech to the Spartans, Leontiadas highlighted past Theban disloyalty to Sparta, and it is very tempting to see this as a veiled reference to the Thebans violating the oaths of their recently renewed alliance with Sparta. Furthermore, the Thebans were on the verge of making an alliance with the Olynthians who were allegedly breaking the autonomy clause of the King's Peace. Their reasoning seems to be that it is appropriate to attack Thebes because they have broken agreements in the past and are thinking about breaking a new one. It seems as if the Spartans are claiming that wanting to start a war and doing so are one and the same. This line of thought is strikingly reminiscent of the Delphic oracle's warning to the Spartan Glaucus (Hdt. 6.86) that to think about deceiving someone with a false oath is the same as actually doing so. It is also reminiscent of the Corinthian argument that the Peloponnesians should go to war because the Athenians were thinking about violating the Thirty Years' Peace. The Theban atrocity can thus be seen to be – in the Spartans' minds – all about making Thebes obedient, i.e. ensuring that they will follow the Spartans whithersoever they lead, have the same enemies and friends, and help when required. The Spartans gain considerably from the puppet regime, with Leontiadas ensuring that the newly allied city of Thebans gave the Spartans more help than was required.

Thus, the Spartans and Agesilaus can be seen to be painting their alleged violations of their oaths as policing prior oaths under the protection of the King's Peace. Each "atrocity" – even the seizure of the Cadmea – can be seen as compelling an ally to fulfil its sworn obligations to Sparta. Xenophon (*Hell.* 5.3.27) concludes his discussion of events by observing that "all the allies of Sparta who had shown any hostile feelings had been brought to heel". Even though he personally considered the seizure of Thebes to be a violation of the King's Peace, Xenophon could see that the Spartans wanted to paint the act as correcting the behaviour of a disloyal ally. Agesilaus presumably did not see himself as committing sacrilege – rather he would have seen himself as indulging in the kind of trickery for which the Spartans were notorious. His former mentor Lysander who infamously said that oaths were for cheating men would undoubtedly have approved. Modern scholars do not, and rightly so. The fact that later common peace treaties included explicit clauses prohibiting regime changes demonstrates what the other Greeks thought about Sparta's exploitation of this grey area in their treatment of the Thebans.[65]

65 Perlman 1985, 164.

10.7 The Peace of Philocrates: debunking Philip's reputation as a perjurer

Agesilaus' manipulation of oaths to Sparta's advantage would no doubt have also impressed another figure infamous for his attitude to oaths – Philip II of Macedon. When it came to oaths Philip's reputation was as sullied as that of Lysander.[66] Pausanias (8.7.5) dismisses Philip's claims to greatness, arguing that "no one could reasonably call him a good commander since he continually trampled solemn oaths under foot, broke sworn truces on every occasion, and showed less respect for the obligations of good faith than any man in the world". But Pausanias' denigration of Philip as a man who "trampled solemn oaths underfoot" probably owes much to Demosthenes' completely biased characterization of Philip as an oath-breaker and perjurer in the *Second Olynthiac*. Early in this speech Demosthenes (2.5) announces to the Athenians:

> To call a man perjurer (*epiorkos*) and faithless (*apistos*) without drawing attention to his acts, might justly be termed mere abuse; but to describe his conduct in detail and convict him on the whole count fortunately requires only a short speech.

But when we would expect Demosthenes to provide his evidence outlining Philip's perjury, he does no such thing. Demosthenes mentions how Philip duped the Athenians with a proposed secret unsworn deal to swap Pydna for Amphipolis, but he provides absolutely no evidence that Philip broke an oath. In fact, Demosthenes does not mention oaths again until he make another baseless allegation that Philip is an oath-breaker:

> It is impossible, men of Athens, impossible to gain permanent power by injustice, perjury (*epiorkia*), and falsehood (Dem. 2.10).

Again Demosthenes provides no evidence to back up his implication that Philip is an oath-breaker. The slur is sufficient for Demosthenes' purpose in this speech. The mud will stick; no documentation is required. As evidence for Demosthenes' mastery of the art of rhetoric (and for the Athenian citizens' capacity to fall for rhetorical tricks) these passages are ideal. But as evidence for Philip's true attitude to oaths they are next to useless. Philip's "perjury" is what might be termed somewhat facetiously a "Demosthenism" not a fact.

But such is the strength of Demosthenes' rhetoric (and Philip's reputation for duplicity) that modern scholars are often tempted to accept

66 According to Aelian (*VH* 7.12), Lysander's infamous one-liner that dice are for cheating children and oaths are for cheating men was attributed by some to Philip.

Demosthenes' claims that Philip broke his oaths at face value. It is a rare commentator indeed who is as blunt as Errington is in stating that "Demosthenes…does not even flinch from distorting, or perhaps even inventing facts to imbue the Athenians with his own hatred of Philip".[67] Much more typical is Pearson's 1976 discussion of Demosthenes' rhetoric which castigated "historians in modern times" for favouring Philip over Demosthenes, yet cites only van Ooteghem 1928 as evidence of these historians. The power of Demosthenes' rhetoric is clear in Pearson's passionate complaint that

> they cannot say what reasons the Athenians might have had to trust him; if they believed (even before Demosthenes told them so) that he was treacherous and incapable of keeping his word, tyrannical and high-handed in his methods, how could any politicians seriously recommend them to adopt him as their partner?[68]

For Pearson, the idea that the Athenians might not have thought Philip treacherous and untrustworthy is not even worth entertaining. Pearson is by no means alone in championing Demosthenes' opposition to Philip. When it comes to assessing whether Philip kept his oaths we are also battling against the fact that Demosthenes has long been admired for his stance as an opponent of Macedonian imperialism, just as Aeschines is typically dismissed as a Macedonian "collaborator".[69] The modern respect for Demosthenes can lead to rather naïve arguments, which is perhaps best exemplified by reactions to Demosthenes' alleged failure to speak before Philip in Pella. According to Aeschines (2.34–5) Demosthenes was so overcome when it was his turn to speak to Philip that he lapsed into silence. Despite Philip's patronising attempts to calm him (or perhaps because of them) Demosthenes was unable to continue, partly because he could not remember his prepared speech. Yet modern commentators on Demosthenes often seem to wilfully refuse to accept his failure. Sealey even defies his own methodology in order to rehabilitate Demosthenes' reputation as a speaker. Although he argues that "if an orator alleges that something happened in private so that there were few or no witnesses and he does not call witnesses, his statements should be doubted. But if he asserts or implies something that was a matter of common knowledge among his audience or could be easily verified by them, he should be believed", Sealey goes on in the very same paragraph to argue that Aeschines' account "is not adequate reason for supposing that

67 Errington 1993, 72.

68 Pearson 1976, 129.

69 For a recent survey of the modern literature on this see Bayliss 2011, 42–3. Perhaps the best (or worst) example of this line of thought is Adam's 1941 article "Philip alias Hitler".

Demosthenes…broke down when it was his turn to address Philip". Yet Aeschines' claim could surely have been verified (or denied) by the other Athenian ambassadors. MacDowell (2009, 317) cannot accept Aeschines' claim either, arguing "certainly the suggestion that he relied on a written text is contemptuous. By this date he was an orator of long experience and surely could have spoken extempore". Yet this clashes with the evidence that Plutarch provides in his work praising Demosthenes. Plutarch makes it clear that Demosthenes' reputation among the Athenians was that of a man not capable of speaking off the cuff. According to Plutarch (*Dem.* 8.3–4)

> it was thought that he was not a man of good natural parts, but that his ability and power were the product of toil. And there would seem to be strong proof of this in the fact that Demosthenes was rarely heard to speak on the spur of the moment, but though the people often called upon him by name as he sat in the assembly, he would not come forward unless he had given thought to the question and was prepared to speak upon it. For this, many of the popular leaders used to rail at him, and Pytheas, in particular, once told him scoffingly that his arguments smelt of lamp wicks.

Mader claims that in his own day Demosthenes was struggling to make himself heard above "pro-Macedonian background noise" at Athens,[70] but today we have to struggle our way through pro-Demosthenic background noise. Many modern attempts to unpick exactly what happened after the Peace of Philocrates was sworn have been coloured by an inability to see Demosthenes' potential faults as a source. Thus, the temptation to follow Demosthenes in painting the Peace of Philocrates as treacherous, "unfair",[71] or "humiliating",[72] has been too great. But a closer look at the main primary sources – in particular Demosthenes 18 and 19, and Aeschines 2 and 3 – will show that there is little substance to the notion that Philip did not keep his word vis-à-vis the Peace of Philocrates. A close reading of the sources shows that such accusations are quite rare in even Demosthenes' speeches, and that when they do appear they barely rate an explanation. In fact, the evidence provided even by Demosthenes himself suggests that Philip was as scrupulous in keeping his sworn word as Demosthenes would like us to believe the Athenians were; it was in the timing of the delivery of his oath that Philip outmanoeuvred the Athenians.

Despite arguments to the contrary our extant sources suggest that Philip took great care to avoid placing himself in a position where he

70 Mader 2005, 28.

71 Buckley 1996, 357.

72 Usher 2010, 232; Pomeroy et al. 1999, 385.

could be seen to be breaking his word, especially when it came to the peace treaty with Athens. When we look past the Demosthenic propaganda this is hardly surprising given that Philip had seized the opportunity to sack the city of Olynthus when the Olynthians had violated a sworn agreement with him. Philip's care in religious matters is not surprising when we consider his role as Apollo's champion in the Sacred War against the Phocians. As a man who was described as "the avenger of sacrilege",[73] and was prepared to deck his soldiers out in laurel wreaths to honour Apollo before battle and then drown the surviving enemy soldiers as temple-robbers afterwards (Justin 8.2.3–4; D.S. 16.35.3), Philip seems an unlikely character to have been as cavalier about keeping his word when invoking the gods as Demosthenes alleges. Indeed it is seldom noticed that Philip defended himself vigorously against Demosthenes' allegations, and in turn accused the Athens of breaking their oaths with some venom. Philip wrote to the Athenian assembly denouncing the Athenian general Diopeithes for attacking his Thracian possessions and even claimed that Diopeithes had seized a herald, Nicias, and assaulted the envoy Amphilochus whom Philip had sent to him to negotiate ([Dem.] 12.2–3). Having outlined these breaches of the Peace Philip warns the Athenians that "having made the gods witnesses, I shall deal with you about these matters".[74] Given Philip's treatment of Olynthus after the Chalcidians broke their oaths of alliance it is no wonder that Philip's victory at Chaeronea led to panic at Athens!

While Demosthenes is eager to show that Philip is misbehaving, it is worth looking not just at the quality of the allegations made by Demosthenes, but also the quantity. For while many modern discussions give us the impression that Demosthenes spent much of the period between the Peace of Philocrates and the Battle of Chaeronea ranting about how Philip had broken his oaths, we have remarkably little in the way of concrete accusations, let alone hard evidence that Philip did break an oath. Much of the content of Demosthenes' speeches is mere bluster about how the Peace was not in Athens' interests. At the same time much of Aeschines' counter-argument is focused on what he perceives (and wishes his audience to perceive) as Demosthenes' hypocrisy regarding the Peace. Comparatively little is focused on the oaths, and what material there is addressing the oaths is almost entirely about how Philip was able to manipulate their timing to his advantage. The message is quite clear – once the oaths were sworn both parties abided by the treaty, each thought

73 Justin 8.2.7, cited by Squillace 2010, 70.

74 For the translation and a discussion of this passage see Buckler (with Beck) 2008, 271–2.

that the other party ought to, and both were very keen to be seen to do so themselves.

There is nothing in our evidence to suggest that Philip committed perjury – the best the Demosthenes had to work with was that Philip had attacked Byzantium, a city that had once been their ally, but was so no longer. But as we have already seen the evidence we possess suggests that Philip could mount a good case that the Athenians had broken their oaths. This can be seen in the manner in which both Philip and Demosthenes refer to the possibility of divine intervention because of alleged broken oaths. Whereas Philip was happy to call the gods to witness Athenian violations of their oath, Demosthenes could not and does not, despite the fact that "the charge of being perjured and the like is a favourite allegation of Demosthenes against Philip".[75] Martin notes that "if Demosthenes were to undertake to demonstrate that the gods would support resistance against … Philip, he would be following a strong tradition" in so doing.[76] Yet Demosthenes does not, and even when he does mention the gods, he "changes the emphasis of the argument [from the norm]: it is not that the gods will back the Athenians once they have started the war, but that the Athenians owe it to the gods to launch the campaign and defend their city".[77] This is more handsome rhetoric from Demosthenes. At first glance it appears that Demosthenes has accused Philip of perjury and implied that the gods will be on Athens' side because of that. But Demosthenes stops well short of saying that the gods will help Athens. The reason that Demosthenes is coy about the possibility of the gods intervening on Athens' behalf is almost certainly because of an unpalatable truth for Demosthenes and modern commentators alike – Athens was in the wrong, and the gods would not be (and definitely are not in the case of Apollo of Delphi) on her side against Philip.[78]

But modern scholars tend to be distracted by Demosthenes' rhetoric. A clear recent example is the work of Hunt who focuses on the fact that Demosthenes begins several speeches by mentioning Philip and oath-breaking. Thus he notes:

> The *Second Philippic* begins with the statement that many speakers have condemned Philip for his acts contrary to the peace treaty, So, too, the *Third Philippic*, *On the Chersonese*, and the *Fourth Philippic* all emphasize that Philip has broken the Peace of Philocrates. In the *Third Philippic* Demosthenes even argues

75 Martin 2009, 226.

76 Martin fails to note that Demosthenes would also have been mirroring Philip had he done so.

77 Martin 2009, 228.

78 Hunt 2010, 87–9.

> that Philip's seemingly small infractions of the treaty, his seizure of small towns in Thrace, are still important: they are breaches of justice and of religion, the latter because he broke his oath.[79]

Hunt notes that Demothenes does not refer to treaties as much as other orators,[80] but sees this as a result of Demosthenes preferring a more emotional style to that of his rivals in the assembly. He argues:

> It may be that most orators relied heavily on legalistic arguments, while Demosthenes preferred to deal with the big picture in a more emotional and generally more moral way. That even Demosthenes referred to treaty obligations in his speeches reveals their importance in Athenian decisions about war. Treaties were mutual agreements with determinate, written terms. They were public documents ratified by oaths to the gods. If a speaker could persuade the Athenian assembly that a treaty had been breached, he was more than halfway to persuading them to go to war.[81]

Hunt's analysis of the place of treaties is entirely accurate. But his assessment of the relative merits of Demosthenes' arguments is not borne out by some very simple statistics. There are some 112 references to the Peace of Philocrates in the fourth-century orators. Of these only fifteen (approximately 13%) are actual allegations of a breach by Philip (all by Demosthenes). Of these fifteen, twelve are smoke-and-mirrors stuff rather than hard allegations. A prime example is Demosthenes' pronouncement in his *Reply to Philip* that the Athenians should expect that the gods will be their mightiest allies and supporters since Philip had perfidiously broken the peace, violating his promises and oaths (Dem. 11.2–3). The "evidence" for this claim is that Philip had used the Peace to occupy many fortresses, harbours and vantage points that will make things difficult for Athens (Dem. 11.7). That this did not actually constitute a breach of the Peace *should* have been obvious to all but the most blockheaded Athenian in the assembly. The *Third Philippic*, *On the Chersonese*, and the *Fourth Philippic* may "all emphasize that Philip has broken the Peace of Philocrates" but they provide virtually nothing in the way of evidence to back it up. Either Demosthenes' rhetoric was sufficiently persuasive, or else Demosthenes repeated himself sufficiently often, that the Athenians could not see what ought to have been obvious to them. It is not so much that "Philip's seemingly small infractions of the treaty, his seizure of small towns in Thrace, are still important" to Demosthenes: they are *all that he has* as "evidence" to support his case. Perhaps the best indicator of how very thin Demosthenes' arguments are is that the sum total of three solid

79 Hunt 2010, 225.

80 Presumably Hunt means Aeschines and Isocrates, but this is not made clear.

81 Hunt 2010, 226.

accusations levelled in the nine forensic and assembly speeches that are attributed to him is matched by the two accusations of breaches by Athens levelled by Philip in his letter to the Athenians, and Aeschines' accusation that Demosthenes has breached the Peace himself!

A close examination of the sources shows that more than half of the references to the Peace (some sixty-six of the 112; just short of 60%) are complete bluster. Only nineteen of these (less than 30%) mention oaths at all. Many imply that Philip has broken oaths but hide behind conditionals. A prime example is Demosthenes' amusingly unconvincing argument (8.4–7):

> But the fact is, if Philip keeps quiet and does not retain any of our territory contrary to the terms of peace, and does not form a general coalition against us, there is nothing more to be said and we must simply observe the peace, and I perceive a readiness to do so on your part at any rate; but if the oath that we took and the terms on which we made peace are published for all men to read, and if it is proved that from the first, even before Diopeithes set sail with colonists, whom they now accuse of having started hostilities, Philip has unfairly taken much that is ours, about which your decrees denouncing him still stand good, and that he is all the time repeatedly seizing the property of the other Greeks and of the barbarians, and so equipping himself for an attack upon us, what do they mean by saying that we must either make war or keep peace?

This passage is backed by so many conditionals that it practically creaks with the effort. All that Demosthenes manages to achieve here is to remove any doubt whatsoever that Demosthenes himself considered the Athenians' oaths to be unshakable provided Philip also kept his word.

A further seventeen of the references (some 15%) are accusations of hypocrisy regarding the Peace levelled at Demosthenes himself. Nine of these are accusations that Demosthenes is being hypocritical about the exclusion of the Thracian king Cersobleptes from the Peace. These references serve to highlight the importance of the timing of the oaths. Philip was able to delay swearing his oaths long enough to finish off Cersobleptes before swearing to the Peace with Athens and her allies. The fact that Cersobleptes had been denied the opportunity to swear along with Athens' other allies in Athens by Demosthenes himself unsurprisingly looms large in Aeschines' attacks on Demosthenes.

Rather than accusing Philip of breaking his oaths, more often than not Demosthenes argues that the Peace itself was a bad idea for Athens. This is partly because two of his speeches are intended to discredit Aeschines for his role in Athens' acceptance of the Peace, and partly because it is obvious that Demosthenes had precious little with which to work to prove that Philip was an oath-breaker. Demosthenes' line of attack does nothing to suggest that either Philip or Athens were likely to break their

oaths. Instead, it confirms that the general understanding would have been that both parties would keep their oaths. Reading between the lines the clear message is that Athens is stuck with a Peace that Demosthenes does not like unless either the Athenians or Philip break their oaths. Despite Demosthenes' rhetoric it is quite clear that Philip was not going to break the peace because he had already got what he desired by manipulating the timing of his oaths.

When Demosthenes does accuse Philip outright the evidence is very thin indeed. In 341 in *On the Chersonese* Demosthenes (8.39) tells the Athenians that they must fix in their minds the fact that Philip is at war with them and has broken the peace. But he provides nothing in the speech to substantiate that claim. Also in that year Demosthenes alleges in the *Third Philippic* (9.15–16) that as soon as the peace was concluded Philip occupied Serrium and Doriscus, and expelled the Athenian garrison from Serreion Teichos and the Sacred Mount. Demosthenes asks what these actions meant, for Philip had sworn to observe the peace. Two years earlier this claim had been made in *On Halonnesus*.[82] This is the sum total of hard "evidence" that Demosthenes has that Philip broke the Peace, and it is a blatant distortion of the facts. Philip's operations took place after the Peace had been made at Athens, but before the Athenian envoys had managed to administer the oaths to Philip. Demosthenes himself gives an accurate version of events at other times.[83] Moreover, by stressing that Philip took these allegedly Athenian possessions before the Athenian general Diopeithes began campaigning in the Chersonese Demosthenes tacitly acknowledges that Athens was acting against Philip and was therefore vulnerable to allegations of breaching the Peace herself!

Although the accusation was bluster, the timing of the oaths was in fact crucial, for it has considerable bearing on two important clauses in the Peace:

1. each party recognized the territory of the other as it stood (Dem. 5.25; 7.26);
2. the peace and alliance was to be binding on the allies of both parties (Dem. 7.31; 19.278).

82 Hegesippus (Demosthenes 7.36–7) argues that Philip has violated the peace by taking places that belonged to Athens from them - Serreion Teichos, Ergisce and the Sacred Mount - after the peace was formalized at Athens. He tells the Athenians that anyone can find out which came first, the month in which peace was made, or the month in which the places were taken.

83 See Demosthenes 18.25, 26; 19.155, 156.

Similar clauses had proved the downfall of the Thirty Years' Peace of 446/5. We have already seen that Athens and the Peloponnesians were brought to the brink of war by a dispute over the status of Corcyra, which was not a party to the treaty. Technically Athens should have been permitted to make an alliance with Corcyra, because such an alliance was not forbidden by the terms of the treaty. But the reality was that Corinth, and therefore ultimately Sparta, would never accept the addition of Corcyra to Athens' "possessions". The Peace of Philocrates on the other hand does not appear to have included an explicit clause allowing the addition of new allies as there was with the Thirty Years' Peace. Once sworn, the lists of allies and possessions were final.

This impacted heavily on Athens' ally Cersobleptes who was also at war with Philip at the time the Peace was sworn. We have already seen that Cersobleptes' representative Critobulus "demanded that he should be allowed to give his oath to the ambassadors of Philip, and that Cersobleptes be enrolled among your allies" (Aeschines 2.82–5), but was denied the opportunity to swear. Unable to swear to the Peace on that day, Cersobleptes was excluded from it forever. Whereas Sparta and Athens had been dragged into war by the squabble over Corcyra, the peace between Philip and Athens should never be imperilled by Athens' connection to Cersobleptes.

Philip also skilfully manipulated the timing of his oath so that there was a significant delay between the time when the Athenians and their allies swore their oaths to Philip's representatives in Athens and the time when Philip swore himself. At the time the Athenian ambassadors arrived at Pella Philip was away campaigning in Thrace, and he seized the opportunity to attack various Athenian allies – including Cersobleptes and the various small towns in Thrace that Demosthenes alleged Philip captured in violation of his oaths – before he swore to the Peace. Demosthenes attacked Aeschines for having allowed a delay to take place,[84] and the full implications of the delay are spelt out clearly in

84 Demosthenes claims that it took "several months" for Philip to make his oath, but this is an exaggeration. The Athenians swore to the peace on, or soon after, 19 Elaphebolion. The Athenian embassy set out shortly after 3 Mounichion, and Demosthenes says it was fifty days after that before Philip got back to Pella. If that is a round figure, it takes us, at the earliest, to about 19 Thargelion; and Philip must have sworn to the treaty within a few days after that, because there was then further delay before the allies swore, and the ambassadors still managed to get back to Athens on 13 Skirophorion. So the delay between the Athenians' swearing and Philip swearing was two months or slightly more; the "three whole months" of Dem. 18.30 actually refers to the whole period between the voting of

Demosthenes' speech *On the Crown*. After citing his own decree proposing the sending of ambassadors to Philip, Demosthenes (18.30) claims:

> My object in moving this decree was to serve Athens, not Philip. Nevertheless these excellent envoys took so little heed of it that they loitered in Macedonia for three whole months, until Philip returned from Thrace, having subdued the whole country; though they might have reached the Hellespont in ten or perhaps in three or four days, and rescued the outposts by receiving the oaths of ratification before Philip captured them. He dared not have touched them in our presence, or we should not have accepted his oath, and so he would have missed his peace, instead of gaining both his objects—peace and the strongholds as well.

The fact that Demosthenes repeats these arguments in various speeches demonstrates not that Aeschines had acted treasonably as he hopes the jurors will believe, but rather the clear fact that only after the oaths had been sworn would both the Athenians and Philip be bound by them. Why else would Philip have rushed to polish off Cersobleptes before the oaths had been sworn if he was not intending to keep to his word? Philip knew that if he actually broke his oath the Peace with Athens would be null and void, so he stage-managed the timing of the oath to ensure that he could conclude the treaty at the time that suited him.

All this begs the question as to why the Athenians did not ask their allies to appoint representatives to go to Philip and give and receive the treaty oaths on behalf of all the allies, appoint their own ambassadors with instructions to do likewise, and send off the joint delegation post-haste with instructions to find Philip, wherever he was, and exchange oaths with him. Presumably no one said, or even claimed afterwards to have said, that it was a blunder to swear to the peace when Philip had not yet done so, for if Demosthenes had he would surely have said so, while if someone else had done so, surely Aeschines would have used that fact against Demosthenes. Presumably the question just did not arise because Athens at that moment needed peace with Philip at any price.

Demosthenes' rhetoric clearly persuaded his fellow citizens. But with the benefit of the dispassion of modern historians we should see that much as Demosthenes wants to paint his Athens as the victim, his whole argument rests on the fact that Philip would want to be seen to be keeping his oath. If the Athenian embassy had arrived before Philip had subdued Cersobleptes, either the Peace would have been dead in the water because the Athenians would be witnesses to Philip's attack on their ally, or Philip would have been forced to keep his oath. The Athenians likewise kept their oaths, although Philip did have grounds for arguing otherwise.

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the treaty and the return of the embassy to Athens. Besides, it wasn't three *whole* months, but six days less.

Demosthenes reminds the jurors, "You Athenians, though suspicious and dissatisfied, observed the terms of peace, for you could do nothing. The rest of the Greeks, though similarly overreached and disappointed, observed the peace; and yet in a sense the war against them had already begun". Much as Demosthenes would hate to hear it, his arguments demonstrate that Philip was not an oath-breaker more effectively than Philip himself could have done.

11 Battlefield truces

Long-term peace treaties such as the Thirty Years' Peace or the Peace of Philocrates were not the only *spondai* that occurred in Archaic and Classical Greece. This section will address a very different form of sworn truce, namely that which took place while both armies were in the field. Such *spondai* included truces for collecting the dead, ceasefires for ending protracted sieges, and treaties for halting hostilities without the need for battle at all. In stark contrast to the *spondai* we have already discussed, such truces were ephemeral *ad hoc* arrangements. Because of this there was considerable potential for deception.

As noted above, all Greek truces reputedly gained their nomenclature *spondai* from Dionysus' releasing of captives "under libations" (*hupospondoi*) after the battle between the Olympian gods and the Titans (D.S. 3.71.6).[1] Unlike longer term peace treaties, such temporary agreements are seldom referred to in the literature as anything other than *spondai*. Although Rawlings recently implied that these agreements were sealed only by libations,[2] we can be certain that some sort of oaths were exchanged. As a renowned expert on Greek religion put it to me recently, the opposing armies will hardly have splashed some wine around and considered the matter closed. The pouring of libations would have been just one of many rituals formalising the truce between the combatants. The purpose of this chapter is partly to try to examine what those rituals were, but also to try to come to some sort of judgement about the role of those rituals in making these agreements binding.

11.1 Truces for collecting the dead – *spondai peri nekrōn*

The most frequent examples of sworn battlefield truces in our sources are those for collecting the dead after a pitched battle. The pages of Thucydides and Xenophon are littered with references to these truces, for there were countless pitched battles during the fifth and fourth centuries,

1 Connor 1988, 15.

2 Rawlings 2007, 193.

and as Hanson observes, "both sides were usually content to exchange their dead under truce".[3]

The origins of these sworn agreements are obscure. Plutarch (*Thes.* 29) informs us that Philochorus (*FGrH* 328 F 112) wrote that the first-ever formal truce for collecting the dead took place when Theseus aided Adrastus in recovering the dead outside the Cadmea by persuading the Thebans to make a truce, which he calls *spondai peri nekrōn*. But Plutarch also reports that some writers say that Heracles was the first to give back the dead to his enemies, while Aelian (*VH* 12.27) notes that Heracles was the first to give the dead back without mediation. On the strength of this, Vaughan stresses that Heracles was "credited as the first to establish the practice of a truce for the retrieval of the dead".[4] But this is not quite the case. Although Plutarch and Aelian both report that Heracles was the first to give the dead back without mediation, neither source explicitly contradicts Philochorus' claim that it was Theseus who inaugurated the practice by way of a sworn truce. Heracles was not said to be the first to give back the dead under a truce, he was said to be the first to give the dead back at all. Philochorus' claim that Theseus instituted the convention is contentious, for he was clearly trying to correct Euripides' portrayal of the events in question in *Supp.* 1187–1204 where there is no such truce, while Isocrates clearly thought the practice predated Theseus' time, because Isoc. 12.169 has Adrastus unable to secure a truce to collect the dead and begging Theseus not "to allow ancient custom and immemorial law to be set at naught".

But while Isocrates and Philochorus clearly thought that battlefield truces for collecting the dead had a long history, Thucydides (1.63.3) is in fact our earliest extant source for such a truce. This comes in his account of the aftermath of the fighting in Chalcidice between the Athenians and the Potidaeans in 432. Thucydides states glibly that after the battle the Athenians set up a trophy and gave back the Potidaean dead under a truce (*huspondous*). This truce for collecting the dead comes almost out of the blue, for Thucydides had not previously mentioned the phenomenon,[5] and Herodotus makes no mention of truces for collecting the dead, or the

3 Hanson 1994, 36.

4 Vaughan 1991, 59–60 n.6.

5 The first truce that Thucydides mentions is that after the Athenian defeat at the Battle of Coronea in 445 BC (1.113.3). He does not associate this truce with collecting the dead, but rather the receiving back of prisoners. Thucydides states that the Athenians received back their prisoners after making a truce (*spondas*).

erection of trophies to indicate victory.[6] There are no regular battlefield truces for collecting the dead in Homer either, only the *ad hoc* arrangement at 7.374-432. On the basis of the absence of such truces in our sources prior to Thucydides, Krentz and van Wees have both recently (independently) argued that the Greek battlefield truce for collecting the dead was a relatively new phenomenon in the fifth century.[7]

If true, this would neatly explain why in the *Iliad* so much attention is paid to the fate of the dead. If there were no clear conventions prior to the fifth century Hector's nervousness as to what will happen to his body if and when Achilles defeats him in combat is entirely justified. Prior to their final duel Hector asked Achilles for an oath that neither would defile the defeated man's body but to return the corpse after the armour has been stripped (*Iliad* 22.254–9). Hector promises that he will do so in any case, but Achilles refuses to take the oath, saying that there can be no oaths between lions and men, nor can wolves and lambs come into agreement (*Iliad* 22.261–6).[8] Achilles' refusal to take the oath clearly demonstrates that he wants to be able to defile Hector's corpse and to deny him the proper funerary rites, an act that would seem horrific to most fifth-century Greeks. The Greeks had long been concerned with proper treatment of the dead after battle by the victors.[9] Achilles' mistreatment of Hector's corpse is not an atrocity limited to epic - there are numerous vase paintings suggesting that the mistreatment of corpses was not unusual in the Archaic and Classical periods.[10] In this context it is worth considering Xerxes' mistreatment of Leonidas' corpse and Herodotus' obvious horror at Xerxes' violation of "the proper order"

6 For more on Herodotus' silence on victory trophies and truces see Krentz 2002, 32–3.

7 Krentz 2002, 33; van Wees 2004, 137–8.

8 The lack of an established procedure can be seen in the fact that Hector also proposed an oath to similar effect before his single combat with Ajax (*Iliad* 7.76–86).

9 One need look no further than Sophocles' *Antigone* for confirmation of that. Philo observes (*Flaccus* 61) that those who were gentle and humane buried the dead of the defeated at their own expense, and those who "carried on their enmity against the dead" gave up the dead under a truce. Either way, the dead would receive a proper burial if normal rules applied. Cf. Parker 1983, 44–5. Concern for the dead extended even to barbarians. According to Pausanias (1.32.5) after the Battle of Marathon the Athenians buried not only their own dead but those of the Persians because "religion necessitated the covering of a corpse with soil". Cf. Rawlings 2007, 194.

10 Vermeule 1979, 103–7, figs. 20–3, 26. Cf. Vaughan 1991, 53; Lendon 2000, 3–11; van Wees 2004, 135–7, 161–2, 240; Krentz 2007b, 173–4.

(Hdt. 7.238).[11] Clearly sometime in the fifth century it became an established convention that a sworn truce would be made for collecting the dead in order to eliminate the possibility that the victors would deny the defeated the right to bury their dead.

But the conflict between the Athenians and the Potidaeans in 432 can hardly have been the first ever example of a truce for collecting the dead – surely even Thucydides could not have failed to mention it if it were. We may be suffering once again because of Thucydides' well-known and well-discussed disinclination to discuss religious matters. But it is probably more than that; authors like Thucydides who had typically served as hoplites and generals themselves were often vague about details of hoplite warfare. Pritchett once lamented that the likes of Thucydides "did not feel the need to enlighten their readers about conventional practices" when it came to the end of a hoplite battle.[12] It is unfortunate that the same disinclination to inform the reader extends to include much about the exchange of oaths as part of the truce for collecting the dead. Although these truces are among the most frequently mentioned oath exchanges in the works of Thucydides and Xenophon, they are almost entirely unexplained by either author.[13] A typical example of the dearth of information is Thucydides' account of the aftermath of the Battle of Mantinea in 418 BC. After the greatest hoplite encounter in decades, a battle in which some 300 on the Spartan side were slain, and some 1,100 Argives, Orneates, Cleonaeans, Mantineans, and Athenians were left dead, and a battle which Plutarch (*Alc.* 15.2) claims threatened the very existence of Sparta, Thucydides (5.74.1–2) merely states:

> Such was the battle, as nearly as possible as I have described it; the greatest that had occurred for a very long while among the Hellenes, and joined by the most considerable states. The Lacedaemonians took up a position in front of the enemy's dead, and immediately set up a trophy and stripped the slain; they took up their own dead and carried them back to Tegea, where they buried them, and restored those of the enemy under a truce (*hupospondous*).

Diodorus (12.79.7) doesn't even mention the truce, merely stating that "the Lacedaemonians having won the victory in a great battle erected a trophy and returned home", while Plutarch mentions only that the Spartans were victorious in the battle. Later authors such as Polybius and Diodorus are equally taciturn when it comes to explaining such *spondai*.

11 For more on Xerxes' mistreatment of Leonidas' corpse see Lazenby 1993, 103.

12 Pritchett 1985, 248.

13 Rawlings 2007, 193 notes that "the request and granting of a such a truce was so common that it often receives little more than a passing mention in the sources".

As if it wasn't bad enough that our surviving sources are so shy about the details, reconstructing what happened is further problematized by the fact that these same sources tend to emphasize the procedure according to the perspective of their chosen subjects e.g. when Thucydides describes an Athenian victory, he emphasizes that they *gave* back the dead under a truce. But when he describes an Athenian defeat, Thucydides focuses on the *receiving* of the dead by the defeated Athenians. The same is largely true of Xenophon, whose terminology depends entirely on whether he is focusing on the winners or the losers of the battle. This is perhaps nowhere more obvious than in his description of the aftermath of the Battle of Mantinea in 362 (*Hell.* 7.5.26) when both sides claimed victory:

> The deity so ordered it that both parties set up a trophy as though victorious and neither tried to hinder those who set them up, and that both gave back the dead under a truce (*hupospondous*) as though victorious, and both received back their dead under a truce (*hupospondous*) as though defeated.

But the relative silence of our sources should not lead us to underestimate the significance of these oath exchanges. It is probably the case that as Krentz notes, "by Thucydides' time, the losers' request for permission to retrieve their dead has become as regular as the erection of trophies",[14] and therefore did not require explanation. But the ritual cannot have come out of nowhere. In order to fully understand the sworn truce for collecting the dead, we must ask ourselves why such a change would take place.

The answer to that question almost certainly lies in the sheer amount of warfare that took place between the Persian wars and the outbreak of the Peloponnesian War. Prior to the Persian invasion Greek warfare had always been a relatively uncomplicated albeit bloody affair. According to Herodotus (7.9) the Persian general Mardonius observed of Greek warfare:

> When they declare war on one another, they find the fairest and most level ground and go down into it and fight, so that the conquerors come off with great losses – I say nothing at all of the defeated, for they are entirely blotted out.

But battles resulting in the level of slaughter Mardonius describes were rare. Even fifth-century Greek warfare was sufficiently rudimentary that the fourth-century orator Demosthenes (9.48) could happily dismiss warfare in the Peloponnesian War as a time when "they would invade, ravage the countryside with a citizen army, and go home again". While earlier Greek warfare was by no means as simple as the glib analyses of Mardonius and Demosthenes might imply, the evidence we have suggests

14 Krentz 2002, 33.

that the "rules" of hoplite warfare were by no means settled prior to the Peloponnesian War. When one considers just how many bloody and brutal battles were fought during this period, and just how many Greek hoplites died in those battles, the development of new religious conventions in warfare seems not unlikely or surprising. Indeed, Herodotus (7.9) casts Mardonius as opining that the Greeks ought to be able to settle their differences without fighting altogether given that they were "people who have the same tongue and use heralds and messengers". The need for conventions or rules is apparent in Herodotus' account of the so-called Battle of the Champions between the Argives and the Spartans which resulted in both sides claiming victory. According to Herodotus (1.82), the Argives and the Spartans had agreed that ownership of the Thyreatis would be decided by whichever set of three hundred champions "won" a duel. At the end of the day's fighting, only three out of the six hundred were left, Alcenor and Chromius of Argos, and Othryades the Spartan. The two Argives, "believing themselves victors", ran to Argos; but Othryades "waited at his position" after stripping the Argive dead and taking the arms to his camp. Both armies claimed victory, with "the Argives arguing that more of their men had survived, the Lacedaemonians showing that the Argives had fled, while their man had stood his ground and stripped the enemy dead". The result was a full-scale battle and "heavy losses" on both sides. These deaths could have been avoided had the rules been clearer in advance. Disputes like this were presumably the reason for the development of the practice of setting up of a victory trophy made out of spoils from the battle. With the victors leaving a visible monument to confirm their victory disputes would be less likely. But even then the issue was not necessarily clear cut, as Thucydides' account (1.105–6) of the first recorded erection of a victory trophy shows.[15] According to Thucydides, after a battle between the Athenians and Corinthians near Megara ca. 460 which left "each with the impression that they had gained the victory", the Athenians set up a trophy after the Corinthians had departed. But after some time the Corinthians decided to set up their own victory trophy. The Athenian response to the Corinthians' attempt to assert their "victory" was swift and bloody. According to Thucydides (1.105.6–106.2):

> Sallying out from Megara, the Athenians cut off the party that was employed in erecting the trophy, and engaged and defeated the rest. In the retreat of the vanquished army, a considerable division, pressed by the pursuers and mistaking

15 Pritchett (1974: 249–258) discusses the evidence for victory trophies in considerable detail. The earliest of these is that described by Thucydides at 1.105–6.

> the road, dashed into a field on some private property, with a deep trench all round it, and no way out. Being acquainted with the place, the Athenians hemmed their front with heavy infantry, and placing the light troops round in a circle, stoned all who had gone in. Corinth here suffered a severe blow. The bulk of her army continued its retreat home.

This was clearly a significant event. Despite his notorious sketchiness regarding the Pentekontaetia, Thucydides felt the need to devote considerable space to the confusion which followed this battle.[16] It is also the first and only battle from the period of the Pentekontaetia commemorated with a victory monument, which would explain why Thucydides devoted so much space (relatively speaking) to this seemingly insignificant battle.

With bloody, indecisive battles such as this one taking place with greater and greater frequency in the fifth century it is not at all surprising to find the development of new conventions such as the victory monument and the truce for collecting the dead. Indeed, it may be that the development of the two was closely linked, with the erection of the trophy and the collecting of the dead frequently mentioned in the same breath by our extant sources.[17] The immediate aftermath of a pitched battle was clearly a tense and confused moment, which was exacerbated by the fact that (*pace* Mardonius) hoplite warfare seldom ended in mass slaughter.[18] With both armies nearby and ready for further fighting the need for an oath to guarantee that nothing untoward happened while the dead were collected for burial is obvious. Only the victors could bury their dead in relative safety. They were able to do so because they had remained on the field of battle whereas the defeated had been forced to concede the battleground.[19] Thus Xenophon (*Hell.* 6.4.15) casts the defeated Spartans at Leuctra debating whether to resume fighting in order to recover their

16 Kitto (1966, 271) observed that although Thucydides packed fifty years into no more than sixteen pages of Teubner text, he "could spare half a page for this one afternoon's horrible work". Hornblower (1991, 166) highlights Thucydides' atypical verbosity, noting that "what follows is remarkably detailed, vivid, and also moving…the change of pace is more effective after the previous chapter, in which a few dry words were used to despatch whole campaigns, let alone the political and strategic reasons for them".

17 Pritchett 1985, 247; Krentz 2002, 33.

18 Hanson (1994: 36) argues, "Long-drawn-out pursuit was also rare; unlike Napoleon, the victors were not aiming for the complete destruction of the enemy army".

19 See Pritchett (1974, 259–269), who observes, "In engagements on land, the victor remained on the field and normally extended to the enemy the right to recover their dead after the conclusion of a truce".

dead by force, but the polemarchs recognize that too many Spartiates had fallen in battle and instead decide to ask for a truce. Pritchett calls "the burial-truce…a formal procedure whereby fighting was terminated and defeat confessed".[20] The "concession" came in the form of sending a herald to request the right to bury the dead, which showed that the losers were incapable of collecting the dead by force.[21] Perhaps the clearest description of the request to collect dead comes from Polybius' account (5.86) of the aftermath of the Battle of Raphia in 217 BC. According to Polybius, after his wild cavalry charge that cost him victory Antiochus the Great camped near the battlefield and "sent a message asking for leave to collect the dead, whom he attended to under a truce".

The victors for their part had already demonstrated their right to claim victory by setting up a trophy (*tropaion*) at the so-called "turning" (*tropê*) where the enemy fled from the field. The trophy was part of the rites of the *epinikia* – formal thanks to the gods who helped in the battle.[22] Pursuit of the defeated was limited, and the winners would soon set about stripping the corpses of the dead for booty. It is at this point that the herald would arrive to ask for permission to collect the dead. It was therefore the victors' prerogative to allow the defeated to collect the dead from their battlefield. Such requests for a truce would not be refused lightly, for as Parker observes it was one of the unshakable rules of the gods that "even the body of an enemy should be given up after battle for burial".[23]

Although the norm seems to be that the victors would collect their dead and then allow the defeated to collect theirs, at least one passage implies that the collecting of the dead could take place while both armies were present. According to Xenophon's description of the aftermath of the fighting between the "men of the city" and the "men of Piraeus" in 404 (*Hell.* 2.4.19–20) has the victors conversing with the defeated while they gather up the dead under a truce:

> The victors took possession of their arms, but they did not strip off the tunic of any citizen. When this had been done and while they were giving back the bodies

20 Pritchett 1985, 246–7.

21 Krentz 2007b, 173, Rawlings 2007, 98, 193. The sending of the herald became synonymous with conceding defeat. Lateiner 1977 has demonstrated that one third of the occurrences of the term herald (*kērux*) in Thucydides relate to truces for recovering the dead, while Justin (6.6.10) explicitly states that the Greeks considered the sending of a herald as a sign of defeat.

22 Rawlings 2007, 97. For a detailed study of the setting up of trophies see Pritchett 1974, 246–75.

23 Parker 1983, 44.

> of the dead under a truce (*huspondous*), many on either side mingled and talked with one another.

With both heavily-armed contingents on the battlefield at the same time, and passions running high, the absolute necessity for oaths to cement the truce is obvious.

While we can be confident that oaths were exchanged, we cannot say what those oaths entailed, for no wording of the sworn agreement is provided by any of our extant sources. Unfortunately the closest we get in our sources is Thucydides' account (4.98) of the aftermath of the Athenian defeat at Delium in 424 when the Athenian envoy to the Thebans complains that all that was required of the Thebans was to tell the Athenians to take up their dead under a truce according to the national custom. This at least implies that the victors would tell the losers that they could collect their dead. But it tells us very little about what the sworn statement might have been. Van Wees suggests that both parties "swore not to take up arms against one another".[24] This certainly seems appropriate for the case of the disputed fighting when neither side could claim victory, such as after the Battle of Mantinea in 362,[25] or that on Mt. Oneion in the Corinthia in 369,[26] but it seems less well suited to situations where there had been a clear winner in the fighting. An oath exchange on such equal terms would almost seem to negate the victory that the winners had just commemorated with a trophy. It seems more likely that the victors who occupied the battlefield swore that they would not molest the defeated while they collected their dead.[27] Such an arrangement could conceivably leave the defeated party free to attack the victors if they chose, so it seems likely that the defeated army would have sworn that they would do no harm to the victors while they were collecting their own dead.

Additional clauses may have been used in particular circumstances. The Thebans twice demanded that the defeated agree to leave Boeotia altogether before granting a truce for collecting the dead.[28] Thucydides claims that when the Thebans insisted on this condition at Delium the

24 van Wees 2004, 17.

25 Indeed, this is what we suggested for the Nottingham Oath database (prior to consulting van Wees 2004 on such truces).

26 Xenophon (*Hell.* 7.1.17) states that many felt that the Spartan polemarch made a truce (*spondai*) that was more to the advantage of the Thebans than the Spartans. Cf. Pritchett 1985, 247, who states that "No trophy was set up, and we are led to assume that each side buried its own dead".

27 This was the view finally taken in the Nottingham database.

28 In 429 (Thuc. 4.99) and 395 (Xen. *Hell.* 3.2.22–5).

Athenians complained that the normal rules of truces were being violated and that the Thebans were "polluting the gods". But rather than seeing this as a signal that the Theban demand was unusual or unfair, we should see this as the Athenians attempting to deflect criticism away from their own sacrilegious occupation of the Temple of Apollo at Delium that prompted the Theban demand. Such counterclaims of sacrilege were not uncommon at the time.[29] When describing the similar demand in 395, Xenophon makes no comment on the legality of the Theban demand, which makes one wonder whether such demands were a not uncommon way for the victors to push their advantage after a battle.

The connection between the battle, the trophy and the truce could easily have been further reinforced by the wording of the oaths that cemented the battlefield truce. Although none of our surviving sources provides even a hint about this, given that the exchange takes place soon after the setting up of the trophy (*tropaion*), it is tempting to think that the victors would have sworn by the god or gods who had granted victory, e.g. Zeus Tropaios, Nike or perhaps even deities who were believed to have appeared and participated in the battle itself.[30] Given that multiple deities were often invoked as a witnesses, it would not be out of place to suggest that the victors swore by Zeus Tropaios *and* Nike, *and* any gods whose epiphany was believed to have swayed the outcome of the battle. As for the defeated, there is no evidence with which to work. Perhaps the victors had the right to impose their own choice to ram home their psychological advantage. But without any clear evidence there is little value in further speculation.

The exchange of oaths would have presumably been accompanied by a sacrifice as well as the eponymous libations. While no account of the *spondai* for collecting the dead records an animal sacrifice we know for certain that other battlefield truces were sealed with the sacrifice of a sheep. We know that Spartan armies were accompanied by large numbers of sacrificial sheep, as well as she-goats called *katoides* that preceded them (Paus. 9.13.4). The she-goats were sacrificed for omens prior to battles (Xen. *Lac.Pol.* 13.8; *Hell.* 4.2.20; Plut. *Lyc.* 22.2). The sheep which followed the goats could well have been used as part of the ritual accompanying the

29 For a recent discussion of the Theban and Plataean claims and counterclaims of sacrilege in 431 see Hornblower 2007, 144–6.

30 Burkert 1985, 128, suggests that the trophy was an offering to Zeus Tropaios. Pritchett (1974, 272) and Zaidman and Pantel (1992, 100) link the *tropaion* to the goddess Nike as well as Zeus Tropaios. For a detailed survey of divine epiphanies in battle, e.g. the appearance of the Dioscuri at Aegospotami (Plut. *Lys.* 12), see Pritchett 1979, 11–46. For a more recent and much briefer discussion see Rawlings 2007, 179–180.

truce for collecting the dead. According to Pausanias (9.13.4) the Spartan king Cleombrotus received an ill omen prior to the Battle of Leuctra when the she-goats were set upon by wolves. Not only did this presage the death of Cleombrotus, the Spartans were unable to sacrifice the she-goats before battle as they normally would in order to receive favourable omens. Perhaps it is significant that the sheep that could be sacrificed afterwards were spared. Given the frequency of the appearance of sheep as the sacrificial victims in oath exchanges, one is tempted to speculate that the omen also hinted that the Spartans would be swearing to a truce on the losing side after the battle.

The need for oaths in cementing trust after a pitched battle is clear given the vulnerability of both sides. Xenophon makes it clear that after the Battle of Leuctra some Spartans felt that they should fight for possession of the battlefield and the right to bury the dead rather than ask for a truce. But the majority of Spartans decided that it would be better to ask for a truce. Clearly they felt that their position was too weak to defeat the Thebans in a second engagement and that a truce would be the safer option. But having made a sworn truce they almost found themselves in a very precarious situation. According to Xenophon (*Hell.* 6.4.24–6), after the Thebans concluded the truce with the Spartans they met with their ally Jason of Pherae and suggested a joint attack on the beleaguered Spartans. The Thebans were clearly contemplating a manoeuvre similar to that which Polyaenus attributed to Philip of Macedon. According to Polyaenus (4.2.5):

> After an engagement with the Illyrians, Philip proposed a truce with them, for the purpose of burying their dead: which being agreed to, as soon as the last man was buried, his army being drawn up and waiting the signal to engage, he instantly ordered them to charge; and put the enemy, who were unprepared, to a general rout.

Fortunately for the Spartans, and for the Thebans' later reputation, they accepted Jason's suggestion that they make an additional truce to allow the Spartans to depart from Boeotia. But cases like these must be the exceptions that prove the rule. As Rawlings observes, "the infrequent examples of lapses were recorded in the sources only because they were exceptional".[31]

31 Rawlings 2007, 202 n.26.

11.2 Other sworn truces

Circumstances were rather different when it came to other kinds of battlefield truces because the cessation of fighting took place before the winners and losers had been sorted out by decisive combat. Because the circumstances were more variable than those of truces for collecting the dead the surviving sources provide considerably more detail about the agreements. Thus we have much clearer evidence of the wording of these agreements – or at least something that is a recognisable paraphrase of the agreement and the oath that would have been sworn. In order to fully understand the significance of the role of oaths in generating trust, some of these sworn agreements need to be considered in more detail.

This type of sworn agreement is perhaps best illustrated by the Homeric truce between the Achaeans and the Trojans when they agreed to settle their differences by means of a single combat between Menelaus and Paris (Homer, *Iliad* 3.245–301; see §§8.2, 8.4). Although the truce itself is not referred to as *spondai*, the pouring of libations is central to the ritual. According to Homer's account the libations and curse came after the sacrifice of two lambs, in an elaborate ritual that included the distribution of wool cut from the heads of the sacrificial victims to all those who were taking part (or at least all those who mattered in Homeric society), the pouring of libations, a curse condemning whoever might break the agreement, and of course the exchange of oaths to the effect that if Paris killed Menelaus the Achaeans would sail away, while if Menelaus was victorious the Trojans would surrender Helen and all her property and make the Greeks compensation on a scale that future generations would remember. As he pours the libation Agamemnon prays "Zeus, greatest and most glorious, and you other immortal gods! May the brains of whichever party breaks this treaty be poured out on the ground as this wine is poured, and not only theirs but their children's too; and other men possess their wives".[32]

The elaborate nature of the ritual described emphasizes its importance in maximizing trust at a time when there is little or no basis for trust between the two warring parties. Indeed as noted above Agamemnon explicitly calls for Priam to be involved in the oath exchange because he does not trust either Paris or Hector (*Iliad* 3.105–10).

32 Later (4.155–9) Agamemnon will make reference to the libations when he complains, "the Trojans have struck you down and trampled on the oaths sworn. Still the oaths and the blood of the lambs shall not be called vain, the unmixed wine poured and the right hands we trusted".

The bloody sacrifice and the splattered libations clearly point to what ought to happen to anyone who breaks the sworn agreement. But such elaborate rituals may not always have been simple tasks to carry out in the field, especially the sacrifice. Polyaenus (3.9.40) records the sacrifice of a sheep during the formalization of a truce between Jason of Pherae and Iphicrates. According to Polyaenus:

> When Iphicrates and the tyrant Jason were encamped against each other by a riverside in Thessaly, they agreed to end the war by a treaty (*speisasthai*). Accordingly after they had been searched by each other's officers, they met unarmed under a bridge, to settle the terms of the treaty. After they had formally bound themselves by oath to keep to the conditions which should be agreed, Iphicrates mounted the bridge; and Jason began a sacrifice to the river, *with a sheep which he had taken from a neighbouring flock*. Iphicrates then leapt down and seized the knife, and although he did not murder Jason with it, he frightened him into making the treaty on terms which were favourable to Iphicrates.

Rather than make the sacrifice from flocks that accompanied his forces, Jason is forced to rely on a nearby flock for the required animals to complete the rituals of the agreement. But the fact that such trouble is taken to ensure that the rituals are followed shows their importance in making the truce binding.

The first extant *historical* example of the term *spondai* in the context of ending hostilities is an agreement between the Athenian tyrant Peisistratus and Cimon, the son of Stesagoras (the father of the famous Miltiades) in 532 BC. According to Herodotus (6.103), after many years in exile Cimon returned home "under a treaty" (*hupospondos*) after he won the four-horse chariot race at the Olympic Games and allowed his victory to be awarded to Peisistratus. The exact nature of the agreement is unclear, but it is apparent that a formal agreement that included the swearing of oaths was required for Cimon to feel confident that his return from exile would not result in injury to himself or his kin at the hands of the Peisistratids, and for Peisistratus to feel confident that Cimon would not act contrary to his interests.[33] Although this is the earliest example of such a sworn agreement, it is unfortunately one of the least typical. Aside from the truces for collecting the dead, the vast majority of sworn truces recorded in our extant sources were employed to bring about the end of sieges. The

33 For the Nottingham database we suggested that Cimon swore that he would not attack Peisistratus, but further research suggests that the more important part of the agreement would be the assurances from the Peisistratids that they would not attack Cimon and his kindred. Presumably, though Cimon would have also been expected to make some sort of sworn assurance.

pages of Herodotus, Thucydides, Xenophon, and the later writers are littered with references to such sworn agreements.

One of the earliest such truces dates to the time of Cleomenes' disastrous attempt to occupy the Athenian Acropolis in 508 BC. According to Herodotus (5.72), after Cleomenes led a Spartan force into Athens and expelled Cleisthenes, he attempted to install Isagoras as tyrant. When the Athenians resisted he seized the Acropolis. The Athenians then besieged Cleomenes for two days before he agreed to leave "under a truce" (*hupospondoi*). Herodotus does not provide us with much in the way of details regarding the agreement, but the *Ath.Pol.* (20.3) makes it clear that the Athenians agreed "that they would release Cleomenes and all the men with him". Presumably this was the substance of the oath they swore to Cleomenes and his supporters.

Additional terms would be added to the sworn agreement depending upon the circumstances. The Spartans who allowed the Messenian rebels to leave Ithome in 455 did so only on condition that the Messenians left the Peloponnese altogether. According to Thucydides (1.103.1) the Spartans agreed that they would not attack the Messenians if they left the Peloponnese and agreed to never set foot in it again.[34] Any Messenian who returned would become the slave of his captor. It seems safe to assume that this was the substance of the Spartans' sworn statement. After the agreement was made the rebels left and were settled at Naupactus by the Athenians. When assessing the strength of these oaths it is worth considering the significance of the fact that the Spartans were prepared to swear an oath to their despised former serfs and to keep it. Despite the Messenians' status as the former "*douloi*" of the Spartans,[35] their former masters were prepared to treat them as they would any other freeborn opponents. Perhaps the fact that the retirement of the Messenians from Ithome was secured partly because "the Pythia announced to the Lacedaemonians that assuredly they would be punished if they committed a crime against the suppliant of Zeus of Ithome" (Paus. 4.24.7) helped convince the ordinarily ultra-pious Spartans to keep their word.

Such agreements might also include stipulations about more than where the besieged may go. According to Thucydides (2.70.3) when the Potidaeans capitulated to the Athenians in 429, they did on so the terms that the Potidaeans, their children and their wives and mercenary troops

34 This agreement bears some considerable similarity to the terms imposed by the Thebans before giving back the dead in 424 and 395.

35 Luraghi (2008, 186 n.46) observes that "the punishment threatened for any of the Messenians who returned to the Peloponnese expressed clearly the Spartans' views of the social identity of the rebels".

were to leave the city, and that each was allowed to take one garment (two in the case of women) and a fixed sum of money for the journey. Thucydides states that they went elsewhere in Chalcidice or wherever they were able to go. Similarly, when the Spartan forces were forced to leave the Cadmea in 382 (Xen. *Hell.* 5.4.11–12; D.S. 15.27.2) the Thebans agreed that they would allow the Spartan troops to leave in safety with their arms. Xenophon makes it clear that the Spartan garrison in the Cadmea agreed to leave only if they were allowed to withdraw with their arms. In a similar vein Philip of Macedon made a truce in 346 that allowed the Phocian leader Phalaecus and his men free passage to the Peloponnese (D.S. 16.59.3, cf. Aeschines 2.140, 142; Dem. 19. 59–61, 63) provided that the Phocians agreed to demolish their city walls. In each of these cases both parties must have sworn that they would abide by the agreed terms.

Such agreements did not only come about at the time of sieges. At the dénouement of the disastrous Sicilian campaign the Athenian general Nicias made a truce with the Syracusans in order to be allowed to check on the fate of his fellow general Demosthenes. Thucydides (7.83.1–3) states that because Nicias did not believe the Syracusans when they told him that Demosthenes had surrendered, he obtained a truce so that he might send a horseman and find out the truth. On learning that the information was true, he proposed terms for peace (Athens would pay the whole cost of the war, and hostages would be surrendered pending payment), but these terms were rejected.

Truces could even end hostilities before a blow had been struck, as in the case of the truce the Spartan king Agis made with the Argives in 418 with both armies in the field of battle ready to engage. According to Thucydides (5.59–61) Agis made the truce with the Argives for four months, within which time they would settle their dispute by arbitration and make a long-term treaty of peace. Agis was persuaded to make this truce by Thrasyllus, one of the five Argive generals, and Alciphron the *proxenos* for Sparta at Argos (see §9.6.4). The Argive people were so angry with their leaders for agreeing the truce without consulting them that they tried to stone Thrasyllus to death. But when an infantry and cavalry force arrived from Athens to assist their Argive allies against the Spartans, the Argives told them to go away, because they were afraid to break their truce with the Spartans. Thucydides also claims (5.63.1) that Agis was later blamed at Sparta for having made the four-month truce when he had such a good opportunity to subdue Argos, and when the Spartans learned that Orchomenus had fallen to the Argives they resolved to raze his house to the ground and fine him 10,000 drachmae. Agis begged them not to do this, and promised to wipe out the charges by a brave deed. That brave deed turned out to be the Battle of Mantinea later that year. The fact that

both peoples were prepared to abide by a sworn agreement made by their leaders, despite being strongly opposed to it, clearly demonstrates the strength of oaths in securing truces.

Although Thucydides portrays the Argives as unwilling to receive assistance from their Athenian allies after they had made the truce with the Spartans, the extant sources make it clear that there was considerable scope for deceit when there had not been a decisive battle. This scope for deception was largely the product of the fact that neither side could be certain who really held the stronger cards. Perhaps the clearest example of the need for caution when agreeing to a sworn truce is the recurring motif in our extant sources of the so-called "Thracian pretence" (cf. §12.2). According to Ephorus (*FGrH* 70 F 119) in mythical times the Thracians and Boeotians agreed a truce and swore oaths that they would not attack each other for a specified number of days. The Boeotians then encamped rather carelessly as they had no fear of attack from the Thracians. In spite of swearing the truce, the Thracians attacked the unsuspecting Boeotians during the night, which suggests that they proposed the truce in order to do this. When the Boeotians, who had thought that peace had been made, charged the Thracians with breaking the truce, the Thracians asserted that they did not break it since the truce had referred to days, whereas they had made their attack by night. From this incident apparently arose the proverb of "Thracian pretence". This was a ruse which Cleomenes allegedly used to great effect against the Argives.[36] If there are any lingering doubts about whether such truces involved oaths, it is worth bearing in mind that Plutarch (*Mor.* 223b) explicitly states that the Argives were deceived because they "relied upon the *spondai*" and that Cleomenes was later criticised for having "violated his oaths".

Nonetheless the examples of trickery and deception are very few and far between in the extant sources. Rather than indicating a lack of importance of oaths in sealing truces, the almost casual usage of the term *hupospondous* by the extant sources should be seen to be decisive evidence of the power of the oaths employed at such times. Without the oaths and libations only goodwill would have prevented the two armies from coming to blows, and goodwill was often in short supply when it came to relations between Greek *poleis*.

36 Later sources alleged that Cleomenes employed this technique against the Argives. Herodotus was clearly not aware of the story – one cannot imagine that he would have passed up such an opportunity, especially considering his habit of giving many sides to the story which comes through loud and clear in the case of Cleomenes – and portrays Cleomenes duping the Argives by another method altogether. Full a full study of this incident see Bayliss 2009.

12 Oaths and "the barbarian"
(*I.C. Torrance*)[1]

Much has been written on the issue of the ancient Greeks' perception of foreigners, or "barbarians" as they are called in Greek, based on our mainly Athenian corpus of texts. The prevailing scholarly opinion of recent decades has been that the presentation of foreigners in these sources is designed to define the superiority of Greek practices and ideals through a process of polarization.[2] Critical responses to this approach, however, have begun to emerge. Mitchell has emphasized that such notional polarity between Greeks and barbarians was put "under theoretical pressure" in Greek sources, leading her to argue that "[i]t is too simple…to talk only of an opposition between Greeks and barbarians, or Self and Other".[3] Similarly, Gruen argues refreshingly "that Greeks, Romans, and Jews … had far more mixed, nuanced, and complex opinions about other peoples [sc. than the "alterity" or "polarity" approach suggests]".[4] Vlassopoulos (2013b) aims to challenge the polarity model by exploring the complex circumstances and common experiences that shaped Greek relations with non-Greeks. One area of common experience between Greeks and foreigners is oath-taking in international treaties and negotiations. The representation in classical Greek sources of foreign attitudes to oaths reinforces this sense of shared experiences and demonstrates that Greeks perceived others as having the same understanding of oaths as themselves. In the context of oath-taking, as in other matters, Greeks respected and admired individuals and communities on the basis of their actions, regardless of their ethnic identity.

1 Many thanks to Chris Baron, Alan Sommerstein, and Kostas Vlassopoulos for several helpful comments and suggestions.

2 Hartog 1980; E.M. Hall 1989 with E.M. Hall 2006, 184–224; Cartledge 1993, 51–77; J.M. Hall 1997 and 2002.

3 Mitchell 2007, 29.

4 Gruen 2011, 3.

12.1 The Trojan War

The roots of Greek international relations are often traced right back to Homer. It is notoriously difficult, however, to identify any significant cultural differences between the Greeks and the Trojans in the *Iliad*. The Carians, Trojan allies, speak a foreign tongue (they are *barbarophōnoi* at *Iliad* 2.867) and Paris has some effeminate qualities, perhaps symbolic of an early identification of foreign men as potentially effeminate. Such details as these hardly amount to any clear antithesis between Greek and foreigner, and many superficial differences between the two camps can be explained by their respective situations as aggressors in a foreign land and defenders at home.[5] Nevertheless, there is one incontrovertibly negative action associated with the Trojan camp, namely the breach of the truce sworn between the two armies in *Iliad* 3 with elaborate accompanying sacrifices and prayers. The treaty is broken by the Lycian Pandarus, a Trojan ally.[6] A few further events seem to associate Trojans with perjury. In *Iliad* 10, Hector swears an oath which proves impossible to keep (that no other man but Dolon will mount the horses of Achilles). The poet describes Hector's oath as *epiorkon* (10.332), a term which usually means "sworn falsely". In the more general context of the Trojan War, Herodotus (2.118) states that the Trojans were not believed by the Greeks when they swore that Helen and all her possessions were in Egypt with king Proteus. Earlier in Trojan mythic history, Laomedon is presented as an oath-breaker when he swears to pay Apollo and Poseidon an agreed wage to build the walls of Troy, but fails to uphold his end of the bargain, leading to the destruction of the Trojan people and crops by Poseidon's sea monster. At least this is the case in Hellanicus (*FGrH* 4 F 26b), though when Laomedon's fraud is mentioned in the *Iliad* (21.441–457) there is no reference to an oath.

These ostensibly negative representations of Trojans and their allies as potential or actual perjurers might suggest the kernel of a general trend of regarding foreigners as untrustworthy and unscrupulous in their sworn contracts. However, if we look a little more closely at each of these

5 This point is made by Threatte 1998, suggesting that Mackie 1996 overstates her case by not considering the different contexts of speech when she argues that Achaean and Trojan speech conforms to different patterns throughout the *Iliad*.

6 E.M. Hall 1989, 25 also notes this negative association with non-Greeks, in addition to Paris' offence against Zeus Xenios when he abducts his host's wife. Kitts 2005, 31 notices that *Iliad* 3.105–10 refers to the untrustworthiness of the Trojans and suggests that this "heightens the sense of precariousness in this oath".

examples, it becomes apparent that such a generalization will not fit the evidence. The breach of the truce at Troy was a point of concern for both Plato (*Rep.* 379e) and Aristotle (frr. 148, 151 Rose), particularly because it is presented as the result of divine conspiracy and interference (see S&T ch. 3). What seems important here is that it is a Trojan *ally* who is persuaded to break the truce, by Athena disguised as Laodocus, son of Antenor (*Iliad* 4.64–126). The poet tells us that he was a fool to follow this advice (4.104), and the Trojans themselves categorically condemn the breach. Antenor explicitly condemns the perjury (7.351–2), and Agamemnon's certainty that Troy is now doomed (4.163–8) is echoed by Hector (6.447–9). No Trojan ever praises what Pandarus did, and he himself, even after wounding Diomedes, comes to feel that "some god is angry" with him (5.191). In the case of Hector's apparently false oath, the issue of *intention* is important. Callaway argues, with reference to this passage, that "Homer does not seem to be taking into consideration the intention of a character swearing an oath: a perjurer is the person who swears a false proposition, whether its outcome is beyond his control or not".[7] This position, however, does not mesh well with Hector's association of perjury with doom in *Iliad* 6. It seems clear that Hector did not *intentionally* swear a false oath, and that the passage should be interpreted with LSJ *s.v.* ἐπίορκος: "but in Il. 10.332 ἐ. ἐπώμοσε he swore *a bootless oath*, i.e. one which he meant to fulfil, but the gods willed otherwise".

In the Herodotean passage, the Greeks may not have believed the Trojans' oaths, but it turns out that they were entirely mistaken in their disbelief. According to the Egyptian priests, who are Herodotus' source for these events, the Greeks only finally came to realize the truth once Troy had been sacked and Helen was nowhere to be found. Menelaus finds Helen unharmed and with Proteus in Egypt as the Trojans had sworn. Herodotus continues (2.118–20) by explaining in some detail why he believes the account of the Egyptian priests to be true, arguing from *eikos*, or probability. It seems that only our final example (Laomedon) is a genuine and intentional breach of contract by an untrustworthy Trojan, and even then, as we have seen, sources are not consistent on whether this was specifically a case of *perjury* or simply a refusal to pay the agreed wage. In fact, Laomedon was renowned for his treachery, not only in the case of the Trojan walls but also when he refused to uphold his bargain with Heracles, who had saved his daughter from the sea monster with the promise of Laomedon's horses as recompense (cf. *Iliad* 5.628–51). Laomedon's treachery once more provokes an attack on his people by

7 Callaway (1993) 19.

Heracles in which, this time, he is killed. It is clear from these examples that Laomedon is an unscrupulous individual and is not representative of Trojan attitudes to the solemnity of oath-taking.

12.2 Ritual and manipulation of language

The oath ritual conducted by Greeks and Trojans in *Iliad* 3 has been discussed as a paradigm of Greek oath-taking.[8] There is no ethnic difference in the way Greeks and Trojans conduct their oath rituals. Indeed there are surprisingly few mentions in Greek sources of variant ethnic practices in oath rituals among foreigners. Herodotus provides some interesting details about the Scythians. These swear their greatest oath by the king's hearth, which causes the king to fall ill in cases of perjury, at which point diviners are called in to expose the perjurer who is beheaded if found guilty (4.68). When Scythians swear solemn oaths, a little blood is drawn from each of the swearing parties and mixed with wine; they dip a scimitar, arrows, an axe and a javelin into the mixture, make their prayer and then drink the mixture (4.70). Drawing blood is also involved in the alliance of 585 B.C. between the Lydian Alyattes and the Mede Cyaxares. Herodotus specifies that these nations have the same oath rituals as the Greeks, but they also strengthen the bond by making incisions in their arms and licking each other's blood (1.74). Although Greeks do not seem to draw their own blood in oath rituals, they do on occasion dip their hands or weapons in the blood of the oath-sacrifice. The attackers in Aeschylus' *Seven against Thebes* touch the sacrificial blood of the bull with their hands as they swear (44), and at the alliance sworn at Cunaxa in 401 BC, both the Greeks and Persians dip a spear into the blood of the sacrificial animals (Xen. *Anab.* 2.2.8–9). In one example, the Spartan king Demaratus, deposed by a bastard, sacrifices a bull to Zeus and forces his mother to hold the bull's intestines as she swears an oath regarding the true identity of his father (Hdt. 4.67–8).[9] Greeks and foreigners can differ locally in the details of their oath rituals, but the functions and essential features of oath-taking remain the same for all national groups.

The same can be said regarding the manipulation of oath language. Avoiding perjury was important for the Greeks, but tricking a swearee with duplicitous language was entirely fair play (see S&T ch. 10).

8 See e.g. Faraone 1993, 73–6; Kitts 2005, 116–23; and §8.1 above.

9 See further Faraone 1993, 65–72 on oaths sworn over mutilated animals in Greece and the ancient Near East.

Foreigners in Greek sources can also be represented as pulling off impressive feats of language manipulation. The historian Ergias, describing an early siege of the city Achaea in Rhodes, records an instance where both parties, the besieging Greeks led by Iphiclus, and the Phoenicians resident in Rhodes led by Phalanthus, got the better of each other through such duplicity (*FGrH* 513 F 1). In negotiating an end to the siege, Iphiclus makes a sworn agreement to provide Phalanthus and his men with boats to leave the island, while Phalanthus swears that his men will take out of the city only what is "in the belly". Phalanthus and his men try to smuggle gold and silver out of the city in the bellies of their animals, but Iphiclus discovers the trick. He responds in kind by providing the Phoenicians with boats, as he had sworn to do, but removing the rudder, the oars and the sails, technically fulfilling his oath while making the boats useless. The stalemate is broken when the Phoenicians bury part of their treasure in Rhodes, with the intention of coming back to retrieve it, while leaving the rest for Iphiclus to take. Iphiclus then fits out the ships as required, enabling the departure of the Phoenicians, and the Greeks come into control of the area in this way. The Persian general Amasis is more successful in his duplicitous treaty with the Barcaeans (c. 520–510 B.C.). Herodotus reports (4.201) that while besieging Barca, Amasis dug a large trench which he then covered with light planks and earth. He invited the Barcaeans to swear a truce, while standing on the covered trench. They swore that the treaty would hold as long as the ground they were standing on remained firm. The Persians were able to enter and pillage the city after breaking down the planks over the trench. Herodotus stresses that they were thus able to keep their oaths.

Thracians are another ethnic group who display a certain skill in swearing deceptive oaths. The detail that Thracian kings swear only by Hermes (Hdt. 5.7) contributes to the association of Thracians with duplicitous oath language, since Hermes for the Greeks is a master of oath manipulation.[10] Ephorus records how the Thracians got the better of the Boeotians in the period of early Greek history immediately following the expulsion of the Thracians from Boeotia to Parnassus (*FGrH* 70 F 119). Both parties swear a truce that is to last a specified number of days. This leads the Boeotians to encamp rather carelessly only to be attacked by the Thracians at night. Charged with having broken the treaty, the Thracians reply that they had attacked at night and not during the days specified by the truce. The incident apparently led to the proverbial concept of a Thracian pretence (cf. §11.2 *ad fin.*) All in all, then, the evidence so far suggests that Greeks considered foreigners to be very much like

10 As in the *Homeric Hymn to Hermes* (see Fletcher 2008).

themselves in swearing solemn oaths and avoiding perjury, in some cases through clever manipulation of language. Indeed, one extreme and infamous example of a foreigner upholding her oath is the queen of the Massagetae, Tomyris, who swears that she will give Cyrus his fill of blood if he fails to return her son and leave her country. When he refuses to comply, Tomyris gathers her forces and defeats the Persians. She takes the head of Cyrus, who has now been slain, places it in a bag of human blood and draws attention to the fact that she is fulfilling her oath (Hdt. 1.212–13).

12.3 Persians: politics, perjury, approbation

By far the most powerful ethnic group with whom the Greeks were involved was the Persians, and references to oaths with or by Persians constitute the bulk of our evidence on Greek perceptions of barbarian attitudes to oaths. Greek representations of Persians as slavish or luxurious have been used to bolster the argument that Persians were conceived of by Greeks as polar opposites to themselves. It is true, of course, that the Athenians, especially, constructed the narrative of their victory over the Persians in the Persian Wars in terms of opposing ideologies, seeing themselves as free Greeks fighting for their own convictions against Persian subjects forced into battle. Nevertheless, the equation is far more complex than this. Certain Persians are greatly admired in Greek sources. In Aeschylus' *Persians*, the wise government of Darius is presented in a very favourable light, contrasted with the rash behaviour of Xerxes which has led to disaster.[11] Cyrus the Great is also praised by Aeschylus (*Pers.* 768–72), and he is singled out by Xenophon in the *Cyropaedia* "as epitomizing the most estimable characteristics of the statesman".[12] Common ancestry between Greeks and Persians is underlined by Aeschylus and by Herodotus. Xerxes is descended "from the race begotten of gold" (i.e. from Zeus and Danaë, *Pers.* 80), the Greek hero Perseus is the founding father of the Persians (Hdt. 7.61, 150), and Greece and Persia are sisters in Atossa's dream (*Pers.* 185–6).

The Persians failed to gain control over mainland Greece in the classical period, but the Greeks continued to rely on negotiating positive relationships with Persia during the protracted Peloponnesian War and thereafter. Persian attitudes to oaths, as represented in Greek sources, are complex and dependent on individual characters and their susceptibility to

11 See, most recently, Gruen 2011, 9–21.

12 Gruen 2011, 54.

external influences. On the one hand, we have Cyrus, who virtuously upholds the sanctity of oaths, and on the other Tissaphernes, who is completely unscrupulous in his perjurious negotiations. In between these two figures we find several examples of Persians who understand the importance of keeping one's oath but are persuaded to commit perjury under the influence of others and against their better judgment. Let us begin with these latter examples.

According to Ctesias, it is by breaking his oaths to his brother, and current ruler, Secyndianus, that Darius II comes to power. Ctesias records that Menostanes had begged Secyndianus not to trust the oaths of Darius (then known as Ochus) and not to make bargains with deceivers, but Secyndianus does not listen. He places his trust in Darius' oaths and as a result he is captured, thrown down in the dust and killed, having reigned for just six months and fifteen days (*FGrH* 688 F 15.50). Darius' treachery is said to have been instigated by his wife Parysatis, who also encourages Darius towards perjury in a later political event. Darius' brother Arsites leads a revolt against him together with Artyphius, son of Megabyzus, but they are decisively defeated by the king's forces. Artyphius surrenders to the king after receiving oaths and guarantees from Darius' representative Artasyras. Darius is, in fact, keen to put Artyphius to death in spite of these oaths, but he takes Parysatis' advice to wait until Artyphius convinces Arsites to surrender also, and then has them both killed. Parysatis' influence is said to overcome Darius' desire to pardon his brother (*FGrH* 688 F 15.52). Elsewhere, Darius II is presented as manipulating his oath-language in a deceitful manner with the aim of achieving his goal *without* breaking his oath. A passage in Valerius Maximus (9.2 ext.6) reports that Darius Ochus swore a most holy oath to the Persians (*sanctissimo Persis iure iurando*) that he would kill none of those who had conspired with him against the seven magi, either by poison, sword, violence or starvation. He nevertheless conceived a cruel death for these men, by filling them full of food and drink and letting them sleep on a high beam in an enclosed space under which was placed a pile of smouldering ashes. The men inevitably fell off the beam to a painful death below. On the strength of parallels between this story and Darius' breach of oaths in the Ctesias fragments discussed above, Stronk includes this passage as a fragment of Ctesias' *Persika* (fr. *15c Stronk). The strange reference to the "seven magi" suggests that Valerius has seriously confused Darius II (Ochus) with Darius I, one of seven *conspirators* who killed the *two* magi, according to Herodotus (3.76–9).[13] Still, the story reveals a perceived assumption on the part of the Persian king that perjury

13 Cf. Shackleton Bailey 2000, ii 318 n.15.

should be avoided, through duplicitous manipulation of language if necessary. It would seem, then, that in the case of Darius II, Parysatis' powerful influence was instrumental in encouraging her husband's perjury. We should remember also that Ctesias served for many years as the personal physician of Parysatis and her sons, and must have had first-hand experience of her powers of manipulation.[14]

An earlier Persian queen who had used her influence to cause the breach of a political truce was Amestris, wife of Xerxes and mother of Artaxerxes. The treaty of 454 BC between Megabyzus (on behalf of the Persians), the Egyptian rebel Inaros (of Libyan origin), and his Greek allies, had ensured the quelling of the Egyptian revolt against Persia with the guarantee that Inaros and the Greeks would suffer no harm from the king. During the course of the revolt the Egyptian forces had killed Amestris' son (Artaxerxes' brother) Achaemenides. In spite of being greatly enraged by his brother's death, Artaxerxes agrees to the terms provided by Megabyzus. Amestris, however, bent on avenging her son's death, pestered Artaxerxes (and Megabyzus) for five years until he gave up Inaros to his mother along with fifty of the Greeks (as many as she was able to get hold of). Inaros was impaled on three stakes and the Greeks were decapitated. Megabyzus (a Syrian by origin), who had secretly enabled the escape of the other Greeks in advance, was greatly grieved at these events and began planning his own rebellion against the king (*FGrH* 688 F 14.38–40).

Amestris may have had a legitimate personal reason for wishing to avenge her son's death, but it is clear that her actions have dire political consequences. The fact that it takes Amestris *five years* to wear down Artaxerxes' resolve on this issue, when he too had been much angered by his brother's death, demonstrates that she must be supposed to have kept him under immense and continued pressure in order to break his will and convince him to agree to the breach of contract, which he must have known would be disastrous. Neither Amestris nor Parysatis is well regarded in Greek sources. Plutarch follows Ctesias in presenting Parysatis as vindictive and cruel (*Artax.* 19.1–10). Amestris is associated with cruel revenge in Herodotus also, after her husband Xerxes is tricked by an oath requested from him by Artaynte, his son's wife. Xerxes falls in love with

14 Lenfant 2004, xvii comments on the probable awkwardness of Ctesias' position as personal physician to Parysatis and to her quarrelling sons, Artaxerxes II and Cyrus the Younger (of whom she favoured Cyrus). On Ctesias' presence at the Persian court, see Lenfant 2004, vii-xxxix, and Stronk 2010, 6–11. Whether or not he is a reliable historical source, Stronk rightly comments (31) that "in the perception of the *Greeks*, he is writing things that are true".

Artaynte and begins an affair with her, but the affair is revealed when Xerxes swears an oath to give Artaynte whatever she desires. She demands the beautiful robe which Amestris had made and given to Xerxes as a gift. Xerxes tries to dissuade her from the robe, offering her unlimited amounts of gold, cities, command of her own army, but Artaynte insists, and bound as he is by the oath, he is compelled to hand it over to her. As Xerxes fears, this leads Amestris to discover the truth about the affair, and she directs her revenge not against Artaynte but against the girl's mother whom she holds responsible, contriving circumstances in which she has the woman horribly mutilated (Hdt. 9.108–13). It seems that manipulative Persian queens and princesses can compel Persian kings to their will either by making them swear oaths or by pressing them to break oaths, while as a general rule Persian kings are not cast as independently pursuing perjury. It is not the case, however, that all Persian queens are viewed so negatively. Atossa, for example, faithfully upholds her sworn agreement with her Greek physician Democedes, encouraging her husband Darius I to send Democedes as a spy to Greece, thus enabling Democedes' escape and return home from Persia (Hdt. 3.133–4).

One Persian figure who appears to break oaths without compunction, and in the absence of any external influence, is Tissaphernes. It is significant that he makes no attempt to avoid perjury through duplicitous language.[15] In particular, he breaks several sworn treaties with the Greeks. Mutual suspicion had arisen among the forces of Tissaphernes and those of the Spartan general Clearchus, who led the Peloponnesian component of the Ten Thousand in 401 BC, on retreating from the battle of Cunaxa. Xenophon relates how Clearchus addressed Tissaphernes, reminding him of the binding sanctity of the oaths they had sworn not to injure one another, which ensured that there was no reason for suspicion (*Anab.* 2.5.3–8). Tissaphernes breaks this oath by seizing Clearchus and his generals and sending them in chains to the king, an act of perjury referred to by Ctesias who was present at the king's court when Clearchus was brought there (*FGrH* 688 F 27.68). There may well have been further perjury on the part of Tissaphernes or others when Clearchus and his generals were lured to Tissaphernes' conference where they were captured. Xenophon does not mention oaths or perjury at this conference

15 Danzig 2007 makes an interesting case for rehabilitating Tissaphernes as a 'model of good strategy' (37) for his own side. In making his argument, however, Danzig somewhat elides the difference between 'verbal deception' and 'perjury', not considering that perjury can be avoided precisely through verbal deception. The presentation of Tissaphernes as a serial perjurer, I would maintain, *pace* Danzig, casts him in an unequivocally negative light.

(*Anab.* 2.5.24–26), but Ctesias (*loc. cit.*) refers to oaths and deceit and the involvement of the Thessalian Menon, whom Xenophon elsewhere identifies as being quick to use perjury, lies and deception to achieve his goals (*Anab.* 2.6.22). In the more general context of the aftermath of the battle of Cunaxa, the perjury of Tissaphernes is evident also in his breach of the sworn agreement he had himself proposed, namely that the Greeks could pass through Persian territory as friendly, and that the Persians would lead the Ten Thousand back to Greece without treachery, providing them with a market or allowing the Ten Thousand to take such provisions as they needed from the country. In return, the Ten Thousand would pass through the country in a friendly manner (*Anab.* 2.3.27–9). The Persians, however, do not uphold their end of the bargain, although Tissaphernes, according to Xenophon, is well aware of the impiety and shamefulness of perjury, an act which Tissaphernes associates with villains and faithless men in a direct speech attributed to him (*Anab.* 2.5.20–1). Tissaphernes persuades Clearchus with this rhetoric that he is trustworthy (*Anab.* 2.5.22–23), but much attention is drawn to Tissaphernes' perjury later in the narrative (*Anab.* 3.1.19–23, 3.2.4–6, 3.2.10, 3.5.5; cf. also Isoc. 4.147).[16]

As regards Clearchus' fate, Ctesias records that, with the help of Parysatis, he was able to treat him well while he was in prison. Among other things, Ctesias gave Clearchus a comb after he requested one (enabling him to perform the Spartan ritual of hair-combing in preparation for potential death, as at Herodotus 7.208–9), and Clearchus gave him a seal-ring in return (*FGrH* 688 F 27.69 and 28). Parysatis is sympathetic to the prisoner in this case, and elicits an oath from her son Artaxerxes II that he will not kill Clearchus. Artaxerxes' wife Stateira, however, has other ideas. She convinces her husband to kill all the Greeks except Menon in yet another example of a Persian queen putting pressure on her husband to commit perjury (*FGrH* 688 F 28.5). Stateira will later suffer death at the hands of Parysatis for going against the queen-mother's wishes (*FGrH* 688 F 27.70).

Subsequent to his central role in orchestrating the capture and ultimate death of Clearchus and other Greek leaders through perjury, Tissaphernes continues breaking his sworn treaties with the Greeks. Xenophon twice recounts the events of 396 BC (*Ages.* 1.10–12, *Hell.*

16 Hirsch 1985, 26 sees Tissaphernes' exchange with Clearchus in *Anab.* 2.5 as a "pivotal moment in the drama of trust and deceit"; he argues (25–32) that Xenophon is particularly invested in presenting Tissaphernes in as negative terms as possible in order to contrast him with the virtuous Cyrus whom Xenophon so admired.

3.4.5–6), when Tissaphernes sent representatives to the Spartan king Agesilaus regarding a truce. The proposed truce was to last until Tissaphernes could send to Artaxerxes II to negotiate peace under the terms requested by Agesilaus, namely independence for the Greek cities in Asia. Although Agesilaus suspects Tissaphernes of deception, he nevertheless accepts Tissaphernes' oath that he would negotiate the peace "guilelessly" (*adolōs*) (*Hell.* 3.4.5). The assertion of transparency only serves to highlight the unscrupulous nature of the deception, as in Tissaphernes' earlier deception of Clearchus. Tissaphernes breaks his oath at once by requesting a large number of additional troops instead of negotiating peace. Agesilaus, for his part, continued to uphold the truce for three months as had been agreed, although he was aware of Tissaphernes' perjury. In this way he brought attention to Tissaphernes' deception and made him distrusted everywhere. John Dillery observes that Tissaphernes' perjury is presented in the *Anabasis* and the *Hellenica* as making the gods allies of the Greeks.[17] The Persian satrap Tithraustes, Tissaphernes' replacement, would later comment to Agesilaus that Tissaphernes had got what he deserved when the king beheaded him in 395 BC (*Hell.* 3.4.25). That death was a fitting punishment for perjury is something that appears to have been well understood by the Persians. The sentiment seems to underlie Herodotus' account of the perjury of Prexaspes, who had murdered king Cambyses' brother Smerdis in secret, on the king's orders. When Cambyses died before returning from his campaign, another Smerdis was established in the throne under the control of the Magi. Prexaspes and the Magi were the only ones who knew that the real Smerdis was dead and Prexaspes swore an oath to the Magi that he would keep their treachery secret. He broke his oath, however, and betrayed the Magi by proclaiming the truth from the palace wall to a large gathering of the Persian people. After committing this perjury, Prexaspes hurled himself from the palace wall to his death (Hdt. 3.74–5). Prexaspes' suicide is, of course, motivated by the knowledge of certain punishment by the Magi but it also represents the fact that the Magi do not expect Prexaspes to break his oath because of the power of that bond.

The case of Prexaspes can be linked to the Persian ideology of abhorring lies and valuing truth, a custom praised by Herodotus (esp. Hdt. 1.136, 138).[18] That Persian royals adhered to this principle is supported by the relief at Behistun on which Darius had an image of himself engraved in a dominant position over conquered "liar-kings", after his military victories of 522–521 BC. The stories of his conquests are inscribed on the

17 Dillery 1995, 109 and 184.

18 On Herodotus' approval for Persian ideology, see Munson 2001, 149–56.

monument where Darius is presented as a man who does not lie and has never lied.[19] The mid-fifth-century Avestan Hymn to Mithra expressly denounces those who break contracts, and Steven Hirsch draws our attention to the fact that the noun *mithra* meaning "contract" and "including international treaties…is formally indistinguishable from the name of the god Mithra".[20] The perjurious figure of Tissaphernes is thus doubly abhorrent by the Persians' own standards as a liar and a breaker of contracts. His antithesis in this regard can be found in Cyrus the Great who is most scrupulous in upholding the truth of his oaths, in valuing the oaths of others, and in liberally using informal oaths throughout the conversations attributed to him. Most of this evidence comes from Xenophon's *Cyropaedia* where Xenophon is keen to present Cyrus as an ideal leader and as the hero of his work.[21] Nevertheless, it is also fair to say that the political alliances formed and many of the events described by Xenophon were based on historical actualities such as Cyrus' military conquests and real Persian practices.[22]

According to Xenophon, the success of Cyrus' campaigns, most notably the subjugation of Babylon, is brought about in part by information and assistance received from deserters of the massive alliance formed against the Medes and Persians at the instigation of the Assyrian king. The disintegration of this alliance provides a contrast to Cyrus' trustworthiness in making international treaties. Members of the alliance originally included: the Assyrians and their Hyrcanian subjects, the Lydians, the Cappadocians, the Phrygians, the Paphlagonians, the Cilicians, the Indians, and the Carians, later joined by the Lycaonians, the Arabians, the Phoenicians, the Ionians, the Aeolians, and most of the

19 See Briant 2002, 124–7, for more detailed discussion.

20 Hirsch 1985, 19; on the Avestan Hymn to Mithra, see Gershevitch 1959.

21 See Gera 1993, 280–300. Sommerstein 2008, 329 n.26, has noted that according to three main groups of MSS (y), Cyrus swears an informal oath by Hera at *Cyr.* 1.4.12 in a linguistic expression strongly associated with Socrates, another of Xenophon's heroes. Gera 1993, 115–31, discusses how Cyrus often plays a similar role in the *Cyropaedia* to that of Socrates as the hero of his *Memorabilia.* So Xenophon's radical departure from other surviving accounts of Cyrus' death (making him die peacefully in old age, having been warned of his death in a dream, rather than after being wounded in battle) can be read in terms of a philosophical death. One other character, Hystaspas, uses the oath formula by Hera in addressing Cyrus at *Cyr.* 8.4.12.

22 Gruen 2011, 56–8. The problem which many scholars have grappled with in approaching the *Cyropaedia* as a source is its indefinable genre, which borrows motifs and literary techniques from the genres of historiography, encomium, philosophical dialogue, and others; see Gera 1993, 1–13.

Greeks in Asia.[23] Those nations who were not convinced of the need for an alliance against the Persians were apparently bribed to join (*Cyr.* 1.5.3). However, when the Assyrians themselves panic in the face of the Persian army (e.g. *Cyr.* 3.3.67.2, 4.1.8.5), the allies, including Croesus and his Lydians, lose heart and flee. The Hyrcanians, who had been exploited by the Assyrians for their own protection, actually defect, and having decided to court the Persians they offer themselves to Cyrus as allies and guides (*Cyr.* 4.2.3.3, cf. 4.2.14.4). The Indian defectors too are vital to the success of Cyrus' campaigns. They are sent into Babylon on the pretext of proposing an alliance between India and Babylon, but with the real purpose of spying on the enemy and reporting back (*Cyr.* 6.1.2.5). Since that alliance is merely proposed and never sworn, there is no issue of perjury and the Indian spies return with valuable information: Croesus has been made leader and general over all the allied kings, Thracian swordsmen have been hired and 120,000 armed Egyptians are sailing to join them (*Cyr.* 6.2.9.4). Cyrus is able to rally his troops against Croesus by reminding them how he had previously fled from his allies when they were defeated by the Persians (*Cyr.* 6.2.19.6, 7.5.20.4).

Cyrus inspires loyalty in those who have broken previous alliances, and those who seek his favour appeal to him with sworn statements to which he reciprocates in kind (or vice versa). Examples of this phenomenon are peppered liberally throughout the *Cyropaedia*. Suffice it to mention here Cyrus' exchanges with Araspas,[24] Artabazus,[25] Astyages,[26] Cyaxares,[27] Gadatas,[28] Gobryas,[29] and Hystapas.[30] Cyrus' oaths in these exchanges are often related to issues of ethics, truth, or good arguments. This reinforces the fact that Cyrus usually "acts as a spokesman for Xenophon's didactic ideas in the *Cyropaedia*".[31] Those who break their alliance with the Persians, however, are to be seriously punished. When the Armenian king, formerly an ally and subject of Cyaxares, deserts his

23 The Milesians were one group of Greeks who did not fight against the Persians because they had previously sworn an alliance with Cyrus, according to Herodotus (1.141, 1.143, 1.169).

24 *Cyr.* 5.1.4.2–3, 5.1.7–8, 5.1.15–16, 6.1.39, 6.3.18.3–5, 6.3.20.3–8.

25 *Cyr.* 1.4.28.10, 1.4.27.13, 1.4.28.9, 4.1.23.4–6, 7.5.53.4, 8.4.27.

26 *Cyr.* 1.3.6–7, 1.3.10, 1.3.11.1–2, 1.4.19.5–7.

27 *Cyr.* 2.1.3.5, 5.5.18.

28 *Cyr.* 5.4.11.1–3, 5.4.12.1–3, 5.4.31, 5.4.32.7–9, 5.4.38, 6.1.3.

29 *Cyr.* 4.6.2.8, 4.6.8–10, 5.2.15, 5.2.27–28, 5.2.30, 5.2.35, 7.5.8, 8.4.7.5–6, 8.4.8.1, 8.4.13.3–4.

30 *Cyr.* 2.2.2.4, 6.1.4, 6.1.5, 8.4.9, 8.4.12, 8.4.15, 8.4.25.3–4.

31 Gera 1993, 281.

alliance on seeing the enemy approaching, Cyrus instructs his men to hunt him down like an animal (*Cyr.* 2.4.22). The final book of the *Cyropaedia* discusses the decline of moral standards after the death of Cyrus. A contrast is drawn between early Persian kings and their officers who were true to their oaths and pledges, and Rheomithres who is said to have violated great oaths (8.8.2–4).[32] It is not surprising, however, that Xenophon's Cyrus the Younger, who has much in common with the protagonist of the *Cyropaedia*, is also presented as taking oaths very seriously in Xenophon's *Anabasis* (1.9).[33]

12.4 Conclusions

Representations in classical Greek sources of oaths and alliances sworn with and by foreigners ("barbarians") display no real features of "othering" proposed by the "polarity" and "alterity" approaches to Greco-foreign relations.[34] Foreign communities, just like Greek communities, share a common belief in the binding ritual performance of oaths, and in the dangers of punishment attendant on perjurers. With the exception of the villainous Tissaphernes, or the mythical Laomedon, who both die as they deserve, foreign leaders are generally careful about keeping their oaths and very hesitant about breaking them. Several royal Persian women influence their men to break oaths or elicit "blank cheque" oaths which lead to disaster. It may be that Greeks perceived Persian women as having particular powers of influence over their men, but they also assumed that their own women were capable of powerful manipulation and deception, which is a *topos* of Greek literature. Female influence is more likely to be a gender rather than an ethnic stereotype. We may not have strict parallels in Greek sources for a woman inducing perjury, but Greeks were certainly capable of committing perjury under external influences. One example is the truce between the Persian Otanes and Maeandrius the tyrant of Samos, made sometime between 522 and 515 B.C. Herodotus tells us (3.144–7) that when Otanes led a Persian force to Samos to install Syloson the brother of Polycrates to rule the

32 The authenticity of the *Cyropaedia's* epilogue has been disputed because of its surprisingly stark tone, but most scholars now accept the passage as genuine; see e.g. Gera 1993, 299–300; Gruen 2011, 58–65.

33 For a comparison of the two Cyruses in Xenophon, see Hirsch 1985, 72–5, 85–9, with 172–80.

34 For other examples from Greek sources where the discourse of alterity is completely absent in Greco-foreign relations, see Vlassopoulos 2013a.

island, Maeandrius, the nephew of Syloson, offered to leave the island under truce, allowing the Persians to enter the city. However, Maeandrius' unstable brother Charilaus persuades him to break the truce and once Maeandrius has left the island as agreed, Charilaus leads a force against the unsuspecting Persians. The breach is punished by Otanes, who puts aside Darius' orders to deliver the island unharmed to Syloson, and commands his soldiers to kill all the Samian men and boys captured. In the case of female involvement in a "blank cheque" oath, there *is* a clear Greek parallel in Eriphyle, who compels Amphiaraus to join the march on Thebes against his will and to his doom by forcing him to fulfill an earlier oath (Asclepiades *FGrH* 12 F 29). Certainly we cannot say that Persians only break oaths when influenced by women, as the case of Prexaspes and the numerous perjuries of Tissaphernes demonstrate, nor that Persian women were perceived entirely negatively by Greeks. All our examples of Persian women inciting perjury come from Ctesias, but Ctesias himself portrays even Parysatis favourably as helping him tend to Clearchus as a prisoner; and Plutarch suggests that Stateira was generally beloved by her people (*Artax.* 5), if not by her mother-in-law. We are further prevented from creating a catch-all stereotype of Persian women by the virtuous Atossa in Herodotus. Apart from the unspeakable Tissaphernes, condemned by Greeks and Persians alike, almost all reports of Persian perjury occur between Persian and Persian. Towards the Greeks, the Persians in general behave no worse, and maybe even better, than Greeks do towards each other (see S&T ch.11).

Regardless of ethnic identity, appropriate attitudes to swearing and perjury are essentially the same across the board, according to Greek sources. Manipulation of language is an entirely fair tactic provided no sworn statement is broken. All nations view perjury with disapproval and the rightful punishment of perjurers is celebrated. Thracian kings may invoke Hermes in their oaths, and Scythians may dip their weapons in the oath sacrifice, but these are minor local alternatives which do not in any way undermine the central components of the oath ritual. Indeed it is striking that Herodotus does *not* include oath-taking practices as a standard feature of his ethnographies. Even where he draws attention to variant details of ritual, Herodotus can nevertheless state that these nations have the same form of oath as the Greeks (e.g. 1.74). It may be true, to a certain extent, that the heroization of Cyrus the Great by Xenophon is made possible because he is already deceased. In Aeschylus' *Persians* it is the ghost of Darius whose wisdom and good government are extolled. However, this does not wholly explain such admiration. Darius had been very much alive when Aeschylus fought the Persians at the Battle of Marathon. As for Xenophon, it remains striking that, among all

the heroes of his various works, two royal Persians, Cyrus the Great *and* Cyrus the Younger, receive the most extended treatment of admiration. We must not forget that in terms of Persian customs and government, Xenophon, like Ctesias, wrote from extensive personal experience of time spent in the Persian empire. "Barbarians", like Greeks, could be admirable or wicked, clever or base, all with the potential to commit perjury, but mostly honouring the binding contracts of sworn alliances and agreements.

13 Conclusion: the efficacy of oaths

We have seen in chapter 10 that accusations of oath-breaking abounded when it came to interstate peace treaties. We have also seen the same sort of accusations thrown about regarding the oaths of alliances (ch. 9). It would be tempting to read into these disputes the idea that oaths were weak and did little to contribute to the stability of interstate agreements. But behind all the accusations and counter-accusations a clear message comes through: oaths *ought* to be kept. It made sense for Demosthenes to allege that Philip had broken his oaths, because he expected the Athenian assembly to take notice and react. It also made sense for Philip to write back that he had kept his oaths, because he too expected the Athenian assembly to take notice. When he felt that the Athenians had broken their oaths, Philip made that clear too. The Corinthians accused the Spartans of breaking their oaths in the fifth century because they knew the accusation would hit home. The Spartans responded with a counter allegation of oath-breaking that was equally telling. But the crucial factor in all this is "the dog that did not bark" – despite all the accusations of oath-breaking in the pages of Thucydides, Xenophon, Isocrates, and Demosthenes, there are very few examples of unambiguously broken interstate agreements. On the whole Greeks adhered to the obligations of alliances, abided by peace treaties, and observed battlefield truces. When they did not it was worthy of comment – even Thucydides seems to see that.

The rituals associated with interstate alliances and treaties clearly played a role in inspiring trust. The clasping of right hands brought the two parties into physical contact. The swearing by common gods such as Zeus, Gaea, and Helios emphasized the common ground between them. Swearing the "most binding oaths" helped generate trust by recognizing differences, and minimizing their potentially deleterious impact. The holding of the bloody entrails of the sacrificial victim while swearing reminded everyone involved of the potential for the gods to wreak a horrible vengeance on anyone who breached his oath. The swearing of the oaths by a wide variety of oath-takers reinforced trust through collective responsibility.

The new clauses that were introduced into alliances in the sixth and fifth centuries were clearly designed to facilitate trust. Why else would sworn agreements "to be allies" become agreements "to be allies

guilelessly"? Mutual-defence clauses would have helped make alliances more valued. So would clauses requiring allies to have the same enemies and friends. As two armies advanced toward each other on the battlefield, allies would surely seem more reliable if they had sworn an oath to have the same enemies. At the same time, sworn agreements *not* to fight became more elaborate. Battlefield truces between two armies grew into multi-year peace treaties between two states or more, and peace treaties between two blocs of states grew into common peace treaties that applied to most of the Greek world.

But there lies the problem with sworn agreements in the Archaic and Classical Greek world: drastic change over a short period of time. Thucydides describes a Greek world dominated by two interstate blocs bound together by oaths. Even his tendency to obscure the religious cannot hide that! But it had not always been that way. Oaths in interstate relations were a relatively new phenomenon in the Classical period. While the oath as a means of generating trust between individuals was well known, the idea of using an oath as a means of generating trust between two states was largely untried until the late Archaic period. The "state" itself was a relatively new creation, and the rules were being written on the hoof. Oaths were employed to create stability, and the Spartans for example were able to exploit the stability thus generated to secure control of much of the Peloponnese. But the more oaths a state was party to, the more complicated things became. Almost overnight the Greek world transformed itself from a world with few interstate oaths into a world filled with them. This created tension as states tried to reconcile potentially conflicting loyalties. This in turn exacerbated the potential ambiguity in interstate agreements, and undermined the trustworthiness of oaths. One need look no further than the events which led to the outbreak of the Archidamian War to see the harmful impact of conflicting oaths.

Nonetheless the oath played a crucial role in the transformation of the Greek world from an aristocratic world dominated by personal relationships between rulers, to the world of the late fifth century where affairs were dominated by two blocs, to the relative equality of the Common Peace, and finally to the Greek world under Macedonian control, where the most important states were bound by oaths to support the Macedonian King. Without the stability generated by oaths the Athenians would not have been able to transform an alliance against the Persians into an Empire. Nor would the Spartans have been able to exploit the King's Peace to take a firmer grip on the Greek world by transforming their hegemony over the allies into an imperial control; if not for the provocation of Thebes that led to their catastrophic defeat at

Leuctra their dominance of the Greek world might have lasted some time longer because of the strength of the oaths that bound their subject allies to them. Neither would Philip of Macedon have been able, without oaths, to lay the foundations for his son to conquer the Persians. Oaths even gave Alexander the justification to raze Thebes to the ground, thoroughly cowing the majority of the Greeks before he left to conquer the Persians. In a passage that we quoted almost at the outset of this book (§2.1), Lycurgus (*Leocr.* 79) said that "the power which keeps our democracy together is the oath (*horkos*)". The same could and should be said for Greek interstate relations throughout the Archaic and Classical periods.

Bibliography[1]

Adam, A.M. (1941), "Philip 'Alias' Hitler", *G&R* 10, 105–113.

Adcock, F.E. / Mosley, D.J. (1975), *Diplomacy in Ancient Greece*, London.

Alonzo, V. (2007), "War, peace and international law in ancient Greece" in: K. Raaflaub (ed.), *War and Peace in the Ancient World*, Oxford, 206–225.

Andrewes, A. / Lewis, D.M. (1957) "Note on the Peace of Nikias", *JHS* 77, 177–180.

Anson, E. M. (1985), "Macedonia's alleged constitutionalism", *CJ* 80, 303–16.

Atkinson, J.E. (2003), "Athenian law and the will of the people in the fourth century B.C.", *Antiquité Classique* 46, 21–47.

Badian, E. (1993), *From Plataea to Potidaea: studies in the history and historiography of the Pentacontaetia*, Baltimore.

Baltrusch, E.A. (1994) *Symmachie und Spondai: Untersuchungen zum griechischen Völkerrecht der archaischen und klassischen Zeit*, Berlin.

Barringer, J.M. (2001), *The Hunt in Ancient Greece*, Baltimore.

Barron, J.P. (1988), "The liberation of Greece", in: J. Boardman et al (eds), *The Cambridge Ancient History Vol. 4: Persia, Greece and the Western Mediterranean c. 525–479 B.C.*, Cambridge, 592–622.

Bayliss, A.J. (2009), "'Laconic swearing' and 'Spartan duplicity'", in: S.D. Hodkinson (ed.), *Sparta: Comparative Approaches*, Swansea, 231–60.

Bayliss, A.J. (2011) *After Demosthenes: the politics of early Hellenistic Athens*, London.

Beck, F.A.G. (1975), *Album of Greek Education: the Greeks at school and at play*, Sydney.

Bederman, D.J. (2001), *International Law in Antiquity*, Cambridge.

Bickermann, E. (1944), "An oath of Hannibal", *TAPA* 75, 87–102.

Blundell, M.W. (1989), *Helping Friends and Harming Enemies: a study in Sophocles and Greek ethics*, Cambridge.

Boedeker, D. (1984), *Descent from Heaven: images of dew in Greek poetry and religion*, Chico CA.

Bolmarcich, S. (2007a), "Oaths in Greek international relations", in *Horkos* 26–38.

Bolmarcich, S. (2007b), "The afterlife of a treaty", *CQ* 57, 477–89.

Bolmarcich, S. (2008), "The date of the 'oath of the Peloponnesian League'", *Historia* 57, 65–79.

Bonner, R.J. / Smith, G. (1930–8), *The Administration of Justice from Homer to Aristotle* (2 vols.), Chicago.

1 Works included in the table of Abbreviations at the beginning of this volume are not listed again here.

Bosworth, A.B. (1994), "Alexander the Great Part 1: The Events of the Reign", in: D.M. Lewis et al. (eds), *The Cambridge Ancient History Vol. 6: The Fourth Century B.C.*, Cambridge, 791–845.

Bremmer, J. (1987), *Interpretations of Greek Mythology*, London.

Briant, P. (2002) *From Cyrus to Alexander: a history of the Persian Empire* (tr. P.T. Daniels), Winona Lake IN.

Brunt, P.A. (1953–4), "The Hellenic League against Persia", *Historia* 2, 135–63.

Buckler, J. (with H. Beck) (2008), *Central Greece and the politics of power in the fourth century B.C.*, Cambridge.

Buckley, T. (1996), *Aspects of Greek History, 750–323 BC: a source-based approach*, London.

Burkert, W. (1983), *Homo Necans: the anthropology of ancient Greek sacrificial ritual and myth*, Berkeley.

Burkert, W. (1985), *Greek Religion: archaic and classical* (trans. J. Raffan), Oxford.

Burn, A.R. (1929), "The so-called 'trade leagues' in early Greek history", *JHS* 49, 14–37.

Callaway, C. (1993), "Perjury and the unsworn oath", *TAPA* 123, 15–25.

Canevaro, M. (2013), *The Documents in the Public Speeches of Demosthenes,* Oxford.

Canevaro, M. / Harris, E.M. (2012), "The documents in Andocides' *On the Mysteries*", *CQ* 62, 98–129.

Carawan, E.M. (1998), *Rhetoric and the Law of Draco*, Oxford.

Carey, C. (1992), *Apollodoros: Against Neaira*, Warminster.

Carey, C. (1995), "The witness's *exomosia* in Athenian law", *CQ* 45, 114–19.

Carey, C. / Reid, R.A. (1985), *Demosthenes: Selected Private Speeches*, Cambridge.

Cargill, J. (1981), *The Second Athenian League: empire or free alliance?*, Berkeley.

Carney, E. (1996), "Macedonians and mutiny: discipline and indiscipline in the army of Philip and Alexander", *CPh* 91, 19–44.

Cartledge, P.A. (1976), "A new 5th-century Spartan treaty", *LCM* 1, 87–92.

Cartledge, P.A. (1987), *Agesilaos and the Crisis of Sparta*, Baltimore.

Cartledge, P.A. (1993) *The Greeks: a portrait of self and others*, Oxford.

Cartledge, P.A. (2002), *Sparta and Lakonia*: *a regional history, 1300–362 BC* (2nd ed.), London.

Cartledge, P.A. / Spawforth, A.J.S. (1989), *Hellenistic and Roman Sparta*: *a tale of two cities*, London.

Cawkwell, G.K. (1993), "Sparta and her allies in the sixth century", *CQ* 43, 364–76.

Cawkwell, G.K. (1997) "The Peace between Athens and Persia", *Phoenix* 51, 115–30.

Christensen, K.A. (1984), "The Theseion: a slave refuge at Athens", *AJAH* 9, 23–32.

Cloché, P. (1920), "Le conseil athenien des Cinq Cents et la peine de mort", *REG* 33, 233–65.

Cole, S.G. (1996), "Oath ritual and the male community at Athens", in: J. Ober / C. Hedrick (eds.), *Demokratia: a conversation on democracies, ancient and modern*, Princeton**,** 227–48.

Cole, S.G. (2004), *Landscapes, Gender, and Ritual Space: the ancient Greek experience*, Berkeley.

Connor, W.R. (1988), "Early Greek land warfare as symbolic expression", *P&P* 119, 3–29.

Conze, A. (1868), "Giuramento da efebo, rapprasentato in pitture vascolari", *Annali dell'Istituto di Corrispondenza Archeologica* 40, 264–7.

Crane, G. (1996), *The Blinded Eye: Thucydides and the new written word*, Lanham MD.

Danzig, G. (2007), "Xenophon's wicked Persian *or* What's wrong with Tissaphernes? Xenophon's views on lying and breaking oaths" in: C.J. Tuplin (ed.) *Persian Responses: political and cultural interaction with(in) the Achaemenid empire*, Swansea, 27–50.

David, E. (1989), "Laughter in Spartan society", in C.A. Powell (ed.) *Classical Sparta: techniques behind her success*, London, 1–25.

Davies, J.K. (1967), "Demosthenes on liturgies: a note", *JHS* 87, 33–40.

Davies, J.K. (1981), *Wealth and the Power of Wealth in Classical Athens,* New York.

de Jong, I.J.F. (2004), *Narrators and Focalizers: the presentation of the story in the Iliad* (2nd ed.), London.

de Ste. Croix, G.E.M. (1972), *The Origins of the Peloponnesian War*, London.

de Waal, F.B.M. (1986), "The brutal elimination of a rival among captive male chimpanzees", *Ethology and Sociobiology* 7, 237–51.

de Waal, F.B.M. (1998), *Chimpanzee Politics* (2nd ed.), Baltimore.

Demargne, P. (1937), "Recherches à Dréros, II", *BCH* 61, 333–48.

Denniston, J.D. (1954), *The Greek Particles* (2nd ed.), Oxford.

Dillery, J. (1995), *Xenophon and the History of his Times*, London.

Dillon, M.P.J. (1997), *Pilgrims and Pilgrimage in Ancient Greece*, London.

Dontas, G.S. (1983), "The True Aglaurion", *Hesperia* 52, 48–63.

Dowden, K. (2006), *Zeus*, London.

Ducat, J. (2006), "The Spartan 'tremblers'", in: C.A. Powell / S.D. Hodkinson (eds) *Sparta and War*, Swansea, 1–55.

Dunn, F.M. (1998), "Tampering with the calendar", *ZPE* 123, 213–31.

Edwards, M.J. (1994), *Greek Orators IV: Andocides*, Warminster.

Edwards, M.W. (1991), *The Iliad: A Commentary, Volume V: Books 17–20*, Cambridge.

Ekroth, G. (2010), "Theseus and the stone: the iconographic and ritual contexts of a Greek votive relief in the Louvre", in J. Mylonopoulos (ed.) *Divine Images*, Leiden, 143–69.

Ellis, J.R. (1994), "Macedon and North-West Greece", in: D.M. Lewis et al. (eds), *The Cambridge Ancient History Vol. 6: The Fourth Century B.C.*, Cambridge, 723–59.

Ellis, J.R. / Milns, R.D. (1970), *The Spectre of Philip. Demosthenes' 'First Philippic', 'Olynthiacs' and speech 'On the Peace': a study in historical evidence*, Sydney.

Errington, R.M. (1993), *A History of Macedonia*, Berkeley.

Faraone, C.A. (1993), "Molten wax, spilt wine and mutilated animals: sympathetic magic in Near Eastern and early Greek oath ceremonies", *JHS* 113, 60–80.

Faraone, C.A. (2005), "Curses and Blessings in Ancient Greek Oaths", *Journal of Near Eastern Religions* 5, 139–156.

Farenga, V. (2006), *Citizen and Self in Ancient Greece*, New York.

Figueira, T.J. (1981), "Aeginetan membership in the Peloponnesian League", *CPh* 76, 1–24.

Fine, J.V.A. (1983), *The Ancient Greeks: a critical history*, Cambridge MA.

Finkelberg, M. (2008), "Plato, *Apology* 28d6-29a1 and the ephebic oath", *SCI* 27, 9-15.

Fisher, N.R.E. (2007), "Lykourgos of Athens: Lakonian by name, Lakoniser by policy?" in: N. Birgalias / K. Burasalis / P.A. Cartledge (eds.), *The Contribution of Ancient Sparta to Political Thought and Practice*, Pyrgos, 327–44.

Fletcher, J. (2008), "A trickster's oath in the 'Homeric Hymn to Hermes'", *AJPh* 129, 19–46.

Fletcher, J. (2012), *Performing Oaths in Classical Greek Drama*, Cambridge.

Flower, M.A. (2009), "Athenian religion and the Peloponnesian War", in: O. Palagia (ed.), *Art in Athens during the Peloponnesian War*, Cambridge, 1–23.

Forrest, W.G. (1957), "Colonisation and the rise of Delphi", *Historia* 6, 160–75.

Forrest, W.G. (1968), *A History of Sparta 950–192 B.C.*, London.

Forrest, W.G. (2000), "The pre-polis polis" in: R.W. Brock and S.D. Hodkinson (eds) *Alternatives to Athens: varieties of political organization and community in ancient Greece*, London, 280–92.

Foxhall, L. (1996), "The law and the lady: women and legal proceedings in classical Athens", in: L. Foxhall / A.D.E. Lewis (eds.), *Greek Law in its Political Setting: justifications not justice*, Oxford, 133–52.

Fraenkel, E. (1950), *Aeschylus: Agamemnon* (3 vols.), Oxford.

Fredal, J.A. (2006), *Rhetorical Action in Ancient Athens: persuasive artistry from Solon to Demosthenes*, Carbondale IL.

Furley, W.D. (1996), *Andokides and the Herms: a study of crisis in fifth-century Athenian religion* (*BICS* Suppl. 65), London.

Gabrielsen, V. (1987), "The antidosis procedure in classical Athens", *C&M* 36, 7–38.

Gaebel, R.E. (2002), *Cavalry Operations in the Ancient Greek World*, London.

Gagarin, M. (1981), *Drakon and Early Athenian Homicide Law,* New Haven.

Gagarin, M. (1986), *Early Greek Law,* Berkeley.

Gagarin, M. (1997), "Oaths and oath-challenges in Greek law", in: G. Thür / J. Velissaropoulos-Karakostas (eds.), *Symposion 1995,* Cologne, 125–34.

Gagarin, M. (2007), "Litigants' oaths in Athenian law", in *Horkos* 39–47 (notes, pp. 227–8).

Gagarin, M. (2008), *Writing Greek Law*, Cambridge.

Gardiner, S.R. (1896), *History of England from the Accession of James I to the Outbreak of the Civil War. Vol. 4: 1621–1623* (4th ed.), London.

Gazzano, F. (2005), "Senza frode e senza inganno: formule 'precauzionali' e rapport interstatali nel mondo Greco", in: L. Santi Amantini (ed), *Dalle parole ai fatti: relazioni interstatali e comunicazione politica nel mondo antico*, Rome, 1–34.

Gera, D. (1993), *Xenophon's* Cyropaedia: *style, genre and literary technique*, Oxford.

Gershevitch, I. (1959), *The Avestan Hymn to Mithra*, Cambridge.

Gomme, A. W / Andrewes, A. / Dover, K.J. (1970), *A historical commentary on Thucydides, Vol. 4,* Oxford.

Goodman, M. D. / Holladay, A.J. (1986), "Religious Scruples in Ancient Warfare", *CQ* 36, 151–71.

Graham, A.J. (1960), "The authenticity of the ὅρκιον τῶν οἰκιστήρων of Cyrene", *JHS* 80, 94–111.

Graham, A.J. (2001), "Abdera and Teos", in: A.J. Graham , *Collected Papers on Greek Colonization*, Leiden, 269–314.

Green, P. (1970), *Alexander of Macedon*, Berkeley.

Gruen, E.S. (2011), *Rethinking the Other in Antiquity*, Princeton.
Hall, E.M. (1989) *Inventing the Barbarian: Greek self-definition through tragedy*, Oxford.
Hall, E.M. (2006) *The Theatrical Cast of Athens: interactions between ancient Greek drama and society* (Oxford).
Hall, J.M. (1997), *Ethnic Identity in Greek Antiquity*, Cambridge.
Hall, J.M. (2002), *Hellenicity: between ethnicity and culture*, Chicago.
Hall, J.M. (2007a), "International Relations", in: P. Sabin / H. van Wees / M. Whitby (eds), *The Cambridge History of Greek and Roman Warfare Vol. 1: Greece, the Hellenistic world and the rise of Rome*, Cambridge, 85–107.
Hall, J.M. (2007b), *A History of the Archaic Greek World ca. 1200–479 BCE*, Oxford
Hall, J.M. (2013), *Artifact and Artifice: classical archaeology and the ancient historian*, Chicago.
Hammond, N.G.L. (1959), *A History of Greece to 322 B.C.*, Oxford.
Hammond, N.G.L. (1967a), "The origin and nature of the Athenian alliance of 478/7 B.C.", *JHS* 87, 41–61.
Hammond, N.G.L. (1967b), *Epirus: the geography; the ancient remains; the history and the topography of Epirus and adjacent areas*, Oxford
Hammond, N.G.L. (2000), "The continuity of Macedonian institutions and the Macedonian kingdoms of the Hellenistic era", *Historia* 49, 141–60.
Hammond, N.G.L. / Griffith, G.T. (1979), *A History of Macedonia, Vol. II: 550–336 B.C.* Oxford.
Hansen, M.H. (1975), *Apagoge, Endeixis and Ephegesis against Kakourgoi, Atimoi and Pheugontes*, Odense.
Hansen, M.H. (1983), *The Athenian Ecclesia*, Copenhagen.
Hansen, M.H. (1985), "Athenian *nomothesia*", *GRBS* 26, 345–71.
Hansen, M.H. (1991), *The Athenian Democracy in the Age of Demosthenes,* Oxford.
Hansen, M.H. (2006), *Studies in the Population of Aigina, Athens and Eretria,* Copenhagen.
Hansen, M.H. / Nielsen, T.H. (2004), *An Inventory of Archaic and Classical Poleis*, Oxford.
Hanson, V.D. (1994), *The Western Way of War*, Berkeley.
Harding, P. (2008), *The Story of Athens: the fragments of the local chronicles of Attika*, London.
Harris, E.M. (1995), *Aeschines and Athenian Politics*, New York.
Harris, E.M. (2001/2006), "How to kill in Attic Greek: the semantics of the verb (ἀπο)κτείνειν and their implications for Athenian homicide law", in: E.M. Harris, *Democracy and the Rule of Law in Classical Athens*, Cambridge, 391–404; first published in E. Cantarella / G. Thür (eds.), *Symposion 1997*, Cologne, 75–88.
Harris, E.M. (2010), "Is Oedipus guilty? Sophocles and Athenian homicide law", in: E.M. Harris / D.F. Leão / P.J. Rhodes, *Law and Drama in Ancient Greece*, London, 122–46.
Harrison, A.R.W. (1971), *The Law of Athens II: Procedure*, Oxford.
Hartog, F. (1988), *The Mirror of Herodotus: the representation of the Other in the writing of history*, Berkeley.
Herman, G. (1987), *Ritualised Friendship and the Greek City*, Cambridge.
Herrmann, P. (1981), "Teos und Abdera im 5. Jahrhundert v. Chr.", *Chiron* 11, 1–30.
Hirsch, S.W. (1985), *The Friendship of the Barbarians: Xenophon and the Persian empire*, Hanover NH.

Holladay, A.J. (1977), "Sparta's role in the First Peloponnesian War", *JHS* 97, 54–63.
Hooker, J.T. (1980), *The Ancient Spartans*, London.
Hornblower, S. (1991), *A Commentary on Thucydides, Vol. 1*, Oxford.
Hornblower, S. (1992), "The religious dimension to the Peloponnesian War, or what Thucydides does not tell us", *HSCP* 94, 169–197.
Hornblower, S. (2007), "Thucydides and Plataian perjury", in *Horkos* 138–47.
Hornblower, S. (2008), *A Commentary on Thucydides. Volume III: Books 5.25–8.109,* Oxford.
Humphreys, S.C. (1985/2007), "Social relations on stage: witnesses in classical Athens", in: E.M. Carawan (ed.), *Oxford Readings in the Attic Orators,* Oxford, 140–213; first published in S.C. Humphreys (ed.), *The Discourse of Law*, London, 313–69.
Hunt, P. (2010), *War, Peace, and Alliance in Demosthenes' Athens*, Cambridge.
Jacobson, H. (1975), "The oath of the Delian League", *Philologus* 119, 256–8.
Janko, R. (1992), *The Iliad: A Commentary, Volume IV: Books 13–16*, Cambridge.
Jeffery, L.H. (1961), "The pact of the first settlers at Cyrene", *JHS* 50, 139–147.
Jeffery, L.H. (1976), *Archaic Greece: The City States c.700–500 B.C.*, London.
Jones, A.H.M. (1967), *Sparta*, Oxford.
Jordan, B. (1986), "Religion in Thucydides", *TAPA* 116, 119–47.
Kagan, D. (1981), *The Peace of Nicias and the Sicilian Expedition*, Ithaca NY.
Kapparis, K. (1999), *Apollodoros "Against Neaira" [D. 59]*, Berlin.
Karavites, P. / Wren, T.E. (1992), *Promise-Giving and Treaty-Making: Homer and the Near East*, Leiden.
Kellogg, D.L. (2008), "Οὐκ ἐλάττω παραδώσω τὴν πατρίδα : the ephebic oath and the oath of Plataia in fourth-century Athens", *Mouseion* 8, 355–376.
Kennell, N. (2010), *Spartans: a new history*, Oxford.
Kitto, H.D.F. (1966), *Poiesis: structure and thought*, Berkeley.
Kitts, M. (2005), *Sanctified Violence in Homeric Society: oath-making rituals and narratives in the Iliad*, Cambridge.
Koch, Ch. (1995–96), "Der Bouleuten-Eid: Ein Beitrag zur Verfassungsentwicklung in Athen", *BIDR* (3rd ser.) 37–38, 277–302.
Krentz, P. (2002), "Fighting by the rules: the invention of the hoplite agôn", *Hesperia* 71, 23–39.
Krentz, P. (2007a), "The oath of Marathon, not Plataea?", *Hesperia* 76, 731–42.
Krentz, P. (2007b), "War", in: P. Sabin / H. van Wees / M. Whitby (eds), *The Cambridge History of Greek and Roman Warfare Vol. 1: Greece, the Hellenistic world and the rise of Rome*, Cambridge, 147–185.
Lambert, S D. (2001), *The Phratries of Attica*, Ann Arbor.
Larsen, J.A.O. (1955), *Representative government in Greek and Roman history*, Berkeley.
Larsen, J.A.O. (1933). "The constitution of the Peloponnesian League", *CPh* 28, 257–76.
Larsen, J.A.O. (1944), "Federation for peace in ancient Greece", *CPh* 39, 145–162.
Larsen, J.A.O. (1949), "The origin of the counting of votes", *CPh* 44, 164–181.
Larson, J.L. (1995), *Greek Heroine Cults,* Madison WI.
Lateiner, D. (1977), "Heralds and corpses in Thucydides", *CW* 71, 97–106.

Lateiner, D. (2012), "Oaths: theory and practice in the *Histories* of Herodotus and Thucydides", in: E. Foster / D. Lateiner (eds), *Thucydides and Herodotus*, Oxford, 154–184.
Lawton, C.L. (1995), *Attic Document Reliefs: art and politics in ancient Athens*, Oxford.
Lazenby, J.F. (1985), *The Spartan Army*, Warminster.
Lazenby, J.F. (1993), *The Defence of Greece 490–479 B.C.*, Warminster.
Leahy, D.M. (1954), "Aegina and the Peloponnesian League", *CPh* 49, 232–243.
Lendon, J.E. (1994). "Thucydides and the 'Constitution' of the Peloponnesian League", *GRBS* 35, 159–77.
Lendon, J.E. (2000), "Homeric vengeance and the outbreak of Greek wars", in: H. van Wees (ed), *War and Violence in Ancient Greece*, Swansea, 1–30.
Lendon, J.E. (2007), "Athens and Sparta and the coming of the Peloponnesian War", in: L.J. Samons II (ed.), *The Cambridge Companion to the Age of Pericles*, Cambridge, 258–281.
Lenfant, D. (2004), *Ctésias de Cnide: La Perse, l'Inde, d'autres fragments*, Paris.
Lesky, A. (1966), *A History of Greek Literature*, New York.
Lewis, D.M. (1992), "The Thirty Years' Peace", in: D. M. Lewis et al. (eds), *The Cambridge Ancient History Vol. 5: The Fifth Century B.C.*, Cambridge, 121–46.
Lofberg, J.O. (1925), "The date of the Athenian ephebeia", *CPh* 20, 330–5.
Lonis, R. (1994), *La cité dans le monde grec: structures, fonctionnement, contradictions*, Nancy.
Lonsdale, D.J. (2007), *Alexander the Great: lessons in strategy*, London.
Loraux, N. (1977), "La 'belle mort' spartiate", *Ktèma* 2, 105–20.
Low, P. (2006), "Commemorating the Spartan war dead", in: C.A. Powell and S.D. Hodkinson (eds) *Sparta and War*, Swansea, 85–109.
Low, P. (2007), *Interstate Relations in Classical Greece: morality and power*, Cambridge.
Luraghi, N. (2008), *The Ancient Messenians: constructions of ethnicity and memory*, Cambridge.
MacDowell, D.M. (1960), "Aigina and the Peloponnesian League", *JHS* 80, 118–21.
MacDowell, D.M. (1962), *Andokides: On the Mysteries,* Oxford.
MacDowell, D.M. (1963), *Athenian Homicide Law in the Age of the Orators*, Manchester.
MacDowell, D.M. (1975), "Law-making at Athens in the fourth century BC", *JHS* 95, 62–74.
MacDowell, D.M. (1978), *The Law in Classical Athens*, London.
MacDowell, D.M. (1990), *Demosthenes: Against Meidias*, Oxford.
MacDowell, D.M. (2000), *Demosthenes: On the False Embassy,* Oxford.
MacDowell, D.M. (2009), *Demosthenes the Orator*, Oxford.
Mackie, H. (1996) *Talking Trojan: speech and community in the Iliad*, Lanham MD.
Mader, G. (2005), "Pax duello mixta: Demosthenes and the rhetoric of war and peace", *CJ* 101, 11–35.
Marshall, C.W. / van Willigenburg, S. (2004), "Judging Athenian dramatic competitions", *JHS* 124, 90–107.
Martin, G. (2008), "The witness's *exomosia* in Athens", *CQ* 58, 56–68.
Martin, G. (2009), *Divine Talk: religious argumentation in Demosthenes*, Oxford.
Mattingly, H.B. (1996), *The Athenian Empire Restored: epigraphic and historical studies*, Ann Arbor.
Meiggs, R. (1972), *The Athenian Empire*, Oxford.

Meineck, P.C. / Woodruff, P. (2007), *Sophocles: Four Tragedies – Ajax, Women of Trachis, Electra, Philoctetes*, Indianapolis.
Merkelbach, R. (1970), "Aglauros (Die Religion der Epheben)", *ZPE* 9, 277–83.
Mikalson, J. D. (1991), *Honor thy Gods : popular religion in Greek tragedy*, Chapel Hill NC.
Mikalson, J.D. (2005), *Ancient Greek Religion*, Oxford.
Mirhady, D.C. (1991), "The oath-challenge in Athens", *CQ* 41, 78–83.
Mirhady, D.C. (2007), "The dikast's oath and the question of fact", in *Horkos* 48–59 (notes, pp. 228–33).
Mitchell, L.G. (2007), *Panhellenism and the Barbarian in Archaic and Classical Greece*, Swansea.
Montgomery, H. (1983), *The Way to Chaeronea: foreign policy, decision-making, and political influence in Demosthenes' speeches*, Irvington-on-Hudson NY.
Morey, C.R. (1907), "The arming of an ephebe on a Princeton vase", *AJA* 11, 143–9.
Mosley, D.J. (1972), "Diplomacy in Classical Greece", *Ancient Society* 3, 1–16.
Munson, R.V. (2001), *Telling Wonders: ethnographic and political discourse in the work of Herodotus*, Ann Arbor.
Murray, A.T. (1939), *Demosthenes V: Private Orations, XLI-XLIX*, London.
Nock, A.D. (1942), "Religious attitudes of the ancient Greeks", *Proceedings of the American Philosophical Society* 85, 472-82.
Oliva, P. (1971), *Sparta and her Social Problems*, Prague.
Ostwald, M. (1955), "The Athenian legislation against tyranny and subversion", *TAPA* 86, 103–28.
Ostwald, M. (2002), "Athens and Chalkis: a study in imperial control", *JHS* 122, 134–43.
Papadopoulos, J. K. (2003), *Ceramicus Redivivus: the Early Iron Age potters' field in the area of the classical Athenian Agora*, Princeton.
Parker, R.C.T. (1983), *Miasma: pollution and purification in early Greek religion*, Oxford.
Parker, R.C.T. (1987), "Myths of early Athens", in: J. Bremmer (ed.), *Interpretations of Greek Mythology,* London, 187–214.
Parker, R.C.T. (1989), "Spartan religion", in: C.A. Powell (ed.), *Classical Sparta: techniques behind her success*, London, 142–72.
Parker, R.C.T. (2004), "Law and religion", in: M. Gagarin / D. Cohen (eds.), *The Cambridge Companion to Ancient Greek Law*, Cambridge, 61–81.
Pearson, L. (1981), *The Art of Demosthenes*, Chico CA.
Perlman, S. (1985), "Greek diplomatic tradition and the Corinthian League of Philip of Macedon", *Historia* 34, 153–174.
Phillips, D.D. (2008), *Avengers of Blood: homicide in Athenian law and custom from Draco to Demosthenes*, Stuttgart.
Plant, I.M. (1994), "The battle of Tanagra: a Spartan initiative?", *Historia* 43, 259–74.
Plescia, J. (1970), *The Oath and Perjury in Ancient Greece*, Tallahassee.
Pomeroy, S.B / Burstein, S.M. / Donlan, W. / Roberts, J.T. (1999), *Ancient Greece: a political, social, and cultural history*, Oxford.
Powell, C.A. (1988), *Athens and Sparta*, London.
Pownall, F.S. (2004), *Lessons from the Past: the moral use of history in fourth-century prose*, Ann Arbor.
Price, S.R.F. (1999), *Religions of the Ancient Greeks*, Cambridge.

Pritchett, W.K. (1975), *The Greek State at War, Vol. 1*, Berkeley.
Pritchett, W.K. (1982), *The Greek State at War, Vol. 2*, Berkeley.
Pritchett, W.K. (1985), *The Greek State at War, Vol. 4*, Berkeley.
Pritchett, W.K. (1991), *The Greek State at War, Vol. 5*, Berkeley.
Raaflaub, K. (2007) "Warfare in Athenian society", in: L.J. Samons II (ed.), *The Cambridge Companion to the Age of Pericles*, Cambridge, 96–124.
Raubitschek, A.E. (1960), "The covenant of Plataea", *TAPA* 91, 178–183.
Raubitschek, A.E. (1966), "The peace policy of Pericles", *AJA* 70, 37–41.
Rawlings, L. (2007), *The Ancient Greeks at War*, Manchester.
Reinmuth, O.W. (1952), "The genesis of the Athenian ephebeia", *TAPA* 83, 34–50.
Reinmuth, O.W. (1971), *The Ephebic Inscriptions of the Fourth Century B.C.*, Leiden.
Rhodes, P.J. (1972), *The Athenian Boule*, Oxford.
Rhodes, P.J. (1981), *A Commentary on the Aristotelian Athenaion Politeia*, Oxford.
Rhodes, P.J. (1985), "*Nomothesia* in fourth-century Athens", *CQ* 35, 55–60.
Rhodes, P.J. (1992), "The Delian League to 449 B.C.", in: D. M. Lewis et al. (eds), *The Cambridge Ancient History Vol. 5: The Fifth Century B.C.*, Cambridge, 34–61.
Rhodes, P.J. (2004), "Keeping to the point", in: E.M. Harris / L. Rubinstein (eds.), *The Law and the Courts in Ancient Greece*, London, 137–58.
Rhodes, P.J. (2007), "Oaths in political life", in *Horkos* 11–25 (notes, pp. 220–3).
Rhodes, P.J. (2008), "Making and breaking treaties in the Greek world", in: P. de Souza / J. France (eds), *War and Peace in Ancient and Medieval History*, Cambridge, 6–27.
Richer, N. (2010), "The religious system at Sparta", in: D. Ogden (ed.), *A Companion to Greek Religion*, Oxford, 236–52.
Robertson, N. (1976), "False documents at Athens: fifth-century history and fourth-century publicists", *Historical Reflections* 3, 3–25.
Robertson, N. (1978), "The myth of the First Sacred War", *CQ* 28, 38–73.
Robertson, N. (1986), "A point of precedence at Plataia: the dispute between Athens and Sparta over leading the procession", *Hesperia* 55, 88–102.
Robertson, N. (1998), "The city center of archaic Athens", *Hesperia* 67, 283–302
Robertson, N. (2010), *Religion and Reconciliation in Greek Cities: the sacred laws of Selinus and Cyrene*, Oxford.
Roisman, J. (2011), *Ancient Greece from Homer to Alexander: the evidence*, Oxford.
Ruschenbusch, E. (2010), *Solon: Das Gesetzeswerk. Fragmente, Übersetzung und Kommentar*, Stuttgart.
Ryder, T.T.B. (1965), *Koine Eirene: general peace and local independence in ancient Greece*, London.
Sabin, P. / van Wees, H. / Whitby, M. (eds) (2007), *The Cambridge History of Greek and Roman Warfare Vol. 1: Greece, the Hellenistic world and the rise of Rome*, Cambridge.
Sage, M.M. (1996), *Warfare in Ancient Greece: a sourcebook*, London.
Salmon, J.B. (1984), *Wealthy Corinth: a history of the city to 338 B.C.*, Oxford.
Sánchez, P. (2001), *L'amphictionie des Pyles et de Delphes*, Stuttgart.
Schaps, D.M. (1977), "The woman least mentioned: etiquette and women's names", *CQ* 27, 323–30.
Scheibler, I. (1987), "Bild und Gefäss. Zur ikonographischen und funktionalen Bedeutung der attischen Bildfeldamphoren", *JDAI* 102, 57–118.

Schwartz, A. (2009), *Reinstating the Hoplite: arms, armour and phalanx fighting in archaic and classical Greece*, Stuttgart.
Schwenk, C. (1997) "Athens", in: L.A. Tritle (ed.), *The Greek World in the Fourth Century*, London, 8–40.
Seager, R. (1976), "After the Peace of Nicias: diplomacy and policy, 421–416 BC", *CQ* 26, 249–269.
Seager, R. (1994a), "The Corinthian War", in: D.M. Lewis et al. (eds), *The Cambridge Ancient History Vol. 6: The Fourth Century B.C.*, Cambridge, 97–119.
Seager, R. (1994b), "The King's Peace and the Second Athenian Confederacy", in: D.M. Lewis et al. (eds), *The Cambridge Ancient History Vol. 6: The Fourth Century B.C.*, Cambridge, 156–186.
Seager, R. (2001), "Xenophon and Athenian democratic ideology", *CQ* 51, 385–97.
Sealey, R. (1976), *A History of the Greek City States 700–338 B.C.*, Berkeley.
Sealey, R. (1993), *Demosthenes and his Time: a study in defeat*, Oxford.
Shackleton Bailey, D.R. (2000), *Valerius Maximus: Memorable Doings and Sayings*, Cambridge MA.
Shear, J.L. (2007), "The oath of Demophantos and the politics of Athenian identity", in *Horkos* 148–60 (notes, pp. 251–4).
Shear, J.L. (2011), *Polis and Revolution: responding to oligarchy in classical Athens*, Cambridge.
Siewert, P. (1972), *Der Eid von Plataiai*, Munich.
Siewert, P. (1977), "The ephebic oath in fifth-century Athens", *JHS* 97, 102–11.
Simon, E. (1983), *Festivals of Attica: An Archaeological Community*, Madison WI.
Slater, W.J. (1991), *Dining in a Classical Context*, Ann Arbor.
Smith, G. (1919), "Athenian casualty lists", *CPh* 14, 351–64.
Sommerstein, A.H. (1980), "The naming of women in Greek and Roman comedy", *Quaderni di Storia* 11, 393–418; reprinted with updates in Sommerstein, *Talking about Laughter and Other Studies in Greek Comedy*, Oxford 2009, 43–69.
Sommerstein, A.H. (2008) "Swearing by Hera: a deme meme?", *CQ* 58, 329–33.
Sommerstein, A.H. (2010a), "Orestes' trial and Athenian homicide procedure", in: E.M. Harris / D.F. Leão / P.J. Rhodes, *Law and Drama in Ancient Greece*, London, 25–38.
Sommerstein, A.H. (2010b), *Aeschylean Tragedy*, 2nd ed., London.
Sommerstein, A.H. (2011), "Sophocles and the guilt of Oedipus", *CFC(G)* 21, 93–107.
Sourvinou-Inwood, C. (2011), *Athenian Myths and Festivals: Aglauros, Erechtheus, Plynteria, Panathenaia, Dionysia*, Oxford.
Squillace, G. (2010), "Consensus strategies under Philip and Alexander: the revenge theme", in: E. Carney / D. Ogden (eds), *Philip II and Alexander the Great: father and son, lives and afterlives*, Oxford, 69–80.
Steiner, D.T. (1994), *The Tyrant's Writ: myths and images of writing in ancient Greece*, Princeton.
Strauss, B.S. (1993), *Fathers and Sons in Athens: ideology and society in the era of the Peloponnesian War*, Princeton.
Stronk, J.P. (2010), *Ctesias' Persian History, Part I: Introduction, Text, and Translation*, Düsseldorf.
Taylor, J.W. (1918), "The Athenian ephebic oath", *CJ* 13, 495–501.

Teodorsson, S.T. (1974), *The Phonemic System of the Attic Dialect 400–340 B.C.*, Gothenburg.
Thomas, R. (1989), *Oral Tradition and Written Record in Classical Athens,* Cambridge.
Threatte, L. (1998), Review of Mackie 1996, *Language and Society* 27, 556–8.
Thür, G. (1981), "Bemerkungen zum Zeugenbeweis im Rechtshilfevertrag aus Stymphalos IG 5/2, 357", in: *Symposium 1979*, Athens, 327–42.
Thür, G. (1996), "Oaths and dispute settlement in ancient Greek law", in: L. Foxhall / A.D.E. Lewis (eds.), *Greek Law in its Political Setting: justifications not justice*, Oxford, 57–72.
Todd, S.C. (1990), "The purpose of evidence in Athenian courts", in: P.A. Cartledge / P.C. Millett / S.C. Todd (eds.), *Nomos: Essays in Athenian Law, Politics and Society*, Cambridge, 19–40.
Todd, S.C. (1993), *The Shape of Athenian Law,* Oxford.
Todd, S.C. (2000), *Lysias,* Austin TX.
Todd, S.C. (2007), *A Commentary on Lysias: Speeches 1–11*, Oxford.
Travlos, J. (1971), *Pictorial Dictionary of Ancient Athens,* London.
Trevett, J.C. (1992), *Apollodoros the Son of Pasion*, Oxford.
Tritle, L. (2007), "'Laughing for joy': war and peace among the Greeks", in: K. Raaflaub (ed.), *War and Peace in the Ancient World*, Oxford, 172–190.
Usher, S. (2010), "Symbouleutic oratory", in: I. Worthington (ed.), *A Companion to Greek Rhetoric*, Malden MA, 220–235.
van Ooteghem, J. (1928), "La politique de Démosthène", *RBPh* 7, 913–55.
van Wees, H. (2000), *War and Violence in Ancient Greece*, London.
van Wees, H. (2004), *Greek Warfare*, London.
van Wees, H. (2006), "'The oath of the sworn bands': the Acharnae stela, the oath of Plataea and archaic Spartan warfare", in: A. Luther / M. Meier / L. Thommen (eds.), *Das frühe Sparta*, Stuttgart, 125–64.
Vaughan, P. (1991), "The identification and retrieval of the hoplite battle-dead", in: V.D. Hanson (ed), *Hoplites: the ancient Greek battle experience*, London, 38–62.
Vermeule, E. (1979), *Aspects of Death in Early Greek Art and Poetry*, Berkeley.
Vidal-Naquet, P. (1986), *The Black Hunter*, Baltimore.
Vlassopoulos, K. (2013a) "The stories of the Others: storytelling and intercultural communication in the Herodotean Mediterranean", in: E. Almagor and J. Skinner (eds), *Ancient Ethnography: new approaches*, London.
Vlassopoulos, K. (2013b), *Greeks and Barbarians*, Cambridge.
Voutiras, E. / Sismanides, K. (2007), "*Δικαιοπολιτῶν συναλλαγαί*: μία νέα επιγραφή από τη Δικαία αποικία της Ερετρίας", in: *Ancient Macedonia VII: Macedonia from the Iron Age to the death of Philip II*, Thessaloniki, 253–74.
Wade-Gery, H.T. (1932–3), "Studies in Attic inscriptions of the fifth century", *BSA* 33, 101–36.
Wareh, T. (2007), "Hierophantic Performances: the Syracusans' Great Oath and other examples", in *Horkos* 161–76 (notes, pp. 254–8).
Warner, R. (1978), *Xenophon: A History of My Times* (with an introduction and notes by G.K. Cawkwell). Harmondsworth.
Weber, M. (1978), *Economy and Society* (ed. G. Roth and C. Wittich; trans. E. Fischoff et al.), Berkeley.

West, M.L. (1978), *Hesiod: Works and Days*, Oxford.
West, S.R. (2003), "ΟΡΚΟΥ ΠΑΙΣ ΕΣΤΙΝ ΑΝΩΝΥΜΟΣ: the aftermath of Plataean perjury", *CQ* 53, 438–447.
Westbrook, R. (1992), "The trial scene in the *Iliad*", *HSCP* 94, 53–76.
Westlake, H.D. 1971. "Thucydides and the uneasy peace: a study in political incompetence", *CQ* 21, 315–25.
Wheeler, E. (1984), "Sophistic interpretations and Greek treaties", *GRBS* 25, 253–74.
Wheeler, E. (1988), *Stratagem and the Vocabulary of Military Trickery*, Leiden.
Willetts, R.F. (1967), *The Law Code of Gortyn*, Berlin.
Wolff, H.J. (1946), "The origin of judicial litigation among the Greeks", *Traditio* 4, 31–87.
Wolff, H.J. (1961), *Beiträge zur Rechtsgeschichte Altgriechenlands und des hellenistisch-römischen Ägypten*, Weimar.
Worthington, I. (2008), *Philip II of Macedonia*, New Haven.
Yates, D. C. (2005), "The archaic treaties between the Spartans and their allies", *CQ* 55, 65–76.
Zaidman, L.B. / Pantel, P.S. (1992), *Religion in the Ancient Greek City*, Cambridge.

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